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July 30, 2018

Via ECF

Hon. Lisa M. Smith, U.S.M.J.
United States District Court
For the Southern District of New York
Hon. Charles L. Brieant, Jr. Federal Building & U.S. Courthouse
300 Quarropas Street, Courtroom 520
White Plains, New York 10601-4150

Re: Avatar Outsourcing, Inc., et al. v. Stewart, et al.
Civil Case No. 7:16-cv-09337-KMK-LMS

Dear Magistrate Judge Smith:

I write to request a pre-motion hearing, as Judge Karas directed that I apply for on June 19, 2018, in anticipation of Plaintiffs filing for appropriate sanctions under Fed.R.Civ.P. 37. The Court denied the request, without prejudice on July 17, 2018 due to the failure to provide the applicable transcripts (which were not provided by the vendor until July 19, 2018 and several inquiries about the delay). We now resubmit the application with the applicable citations to the deposition transcripts.

While the issues of discovery non-compliance by the Defendants was before this court many times in the past, based upon information solicited during the depositions of Mr. Stewart (**Exhibit A**) and the fact witness Edivict Valenzuela (**Exhibit B**), it is now evident that the discovery violations are either the willful conduct of Mr. Stewart or, and we do not allege so, his lawyers' office.

As discussed below, we seek an appropriate sanction which includes negative inferences as to the documents and video due to the lack of disclosure and willful spoliation as well as monetary sanctions for the costs to which Plaintiffs have been forced to pay as a result of these discovery games by these defendants.

As recently reiterated by the Second Circuit in the matter of Klipsch Group, Inc. v. ePRO E-Commerce Limited, 880 F.3d 620, 628 (2d Cir 2018), "[t]he party seeking discovery sanctions on the basis of spoliation must show by a preponderance of the evidence: (1) that the party having control over the evidence had an obligation to preserve it at the time it was destroyed; (2) that the records were destroyed with a culpable state of mind; and (3) that the destroyed evidence was relevant to the party's claim or defense such that a reasonable trier of fact could find that it would



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support that claim or defense.” (citing Chin v. Port Auth. of N.Y. and N.J., 685 F.2d 135, 162 (2d Cir. 2012). Thereafter, “[o]nce a court has concluded that a party was under an obligation to preserve the evidence that it destroyed, it must then consider whether the evidence was intentionally destroyed, and the likely contents of that evidence. The determination of an appropriate sanction for spoliation, if any, is confined to the discretion of the trial judge[.]”. Fujitsu Ltd. v. Fed. Exp. Corp., 247 F.3d 423, 436 (2d Cir. 2001).

The salient facts evidence that discovery compliance by Defendants Stewart and David TPO, LLC has been a massive issue in this matter, requiring multiple hearings, telephone conferences, and letters submitted to the Court.

This matter was referred to Your Honor on November 28, 2017 as a result of, upon information and belief, our letter to the Court on November 24, 2017 where, for the first time, we sought sanctions as a result Defendants willful refusal to answer discovery *after* counsel for Defendants consented to the dates for service of requests and responses.

Thereafter, on December 14, 2017, the parties, through counsel, appeared before Your Honor and agreed to some new dates in lieu of sanctions. Defendants failed to comply with those obligations as well.

On January 3, 2018, we wrote to the court to advise of the continued conduct of these Defendants in noncompliance of discovery obligations and continued violations of the Court’s multiple discovery orders. Another conference was held on January 18, 2018 where most of the issues were resolved and we thought this would be the end – but it was not. Defendants again blew their deadlines.

On January 30, 2018, we again wrote to seek sanctions for the continued discovery violations.

We appeared, again, on February 14, 2018 and more issues were apparently resolved on the record – as we believed at that time. Yet it was at the depositions that we realized that there is far more information willfully withheld by the defense due to, among other reasons, Mr. Stewart’s sideline conduct of determining what he must produce in his own opinion notwithstanding the Court Rules and, *inter alia*, dictating when he gives consent to produce certain relevant information. See Deposition of David Stewart, June 5, 2018, at 80:16-22 (hereafter “Stewart Dep. at ___”). He also appeared to be willing to withhold documentation because he subjectively wanted to decide how it related to my clients (see, e.g., Stewart Dep at 170:1-8 where Mr. Stewart attempted to refuse to answer a question by saying that he needed to determine “to see how it relates to Avatar”). Further, it is evident that a substantial amount of paper documentation is currently being withheld by Mr. Stewart which are directly relevant to the pendant state actions – including the violations of the non-compete agreements and professional negligence claims including the financial records as discussed below.



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These statements are supported by the deposition testimony of Mr. Stewart and of the third-party witness, Ms. Valenzuela. Mr. Stewart testified, *inter alia*, that he had to consent to what was being produced and that everything we had is what he consented to. Id. However, he also testified that Plaintiff George Kaltner's personal assistant, Bria Christian, provided him with relevant videos which were never produced in this case. Stewart Dep. at 79:2-81:4. Some discussion was made during the deposition about the fact that we had imaged the hard drives of his laptop (Stewart Dep at 80:23-25) but, without knowing what to look for (as the existence of these videos was never disclosed), it would be impossible to look at *every single file or video on hundreds of gigabytes of data* to try to find a needle in a haystack which would, potentially, include looking at hours upon hours of videos – trying to find something relevant. Such runs contrary of the parties' respective obligations under Fed.R.Civ.P. 26. My client has already spent tens of thousands of dollars on legal fees and costs for discovery in this case – including performing some of Defendants' obligations (and discussed below) – and it is improper to demand they pay more in the hopes of finding something that we were not even notified about in the initial disclosures or responses to discovery. Further, my client has a good faith basis to believe that this video would support my clients' allegations against Mr. Stewart and David TPO, LLC as to the pendant state claims. (See Exhibit C; Stefani Dep at 107:2-108).

Further, Mr. Stewart's deposition evidenced that he was trying to keep relevant information from us. During his deposition, we asked him about discussions by text messaged he had with an individual who we now know to be his daughter which he thought were "protected" and not to be produced even though they contain a bevy of relevant admissions and facts. Stewart Dep at 140:24-141:8. Those discussions referenced that he had "sold his soul to the devil" in bringing these cases (Stewart Dep at 139:20-140:23),¹ massive financial issues (139:10-19; 167:13-19; 168:8-12; 169:3-13; 171:1-13), and even solicited his daughter for money to support bringing more lawsuits (170:17-25).

Similarly, that my client had to pay for the discovery to which Mr. Stewart was obligated to produce is predicated upon a falsehood by these defendants to this Court multiple times. Mr. Stewart, on his own and through his counsel, advised that he could not afford to perform discovery. However, during his depositions, we learned that Mr. Stewart's monthly expenses are only about 33% of his take-home pay (about \$1,000.00 (Stewart Dep at 155:6-7; 159:13-15) out of \$3,000.00 monthly (Stewart Dep at 159:9-12)) and that the reason that he plead poverty is because his position as to what constitutes poverty is making less than \$120,000.00/annum (Stewart Dep at 145:19-146:1). In other words, Defendants were more than able to pay for discovery of their own

¹ During Mr. Stewart's deposition, when confronted with his use of common terms or proverbs, he made claims that they meant something far from their actual meaning and which should be known by him. For example, Mr. Stewart claimed that "selling your soul to the devil" meant "going to hell and come back." Stewart Dep at 140:12-20. Also, while referencing the claims made in another matter before this Court, where Mr. Stewart solicited an individual to bring a case against my clients through Mr. Chen, he laughed about the allegations calling them "alternative facts." When confronted with this, Mr. Stewart again tried to create an odd definition for a lie (Stewart Dep at 212:8-213:13; 222:3-223:2).



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electronic devices, refused to do so, claimed poverty, and then state that they did not provide relevant discovery because maybe, just maybe, we would find it ourselves (See e.g. Stewart Dep at 24:11-23). Such runs counter to the disclosure obligations in the Federal Rules and has caused my clients to pay thousands of dollars in legal fees and costs. Indeed, as discussed in Klipsch, supra, at p. 631:

The extremely broad discovery permitted by the Federal Rules depends on the parties' voluntary participation. The system functions because, in the vast majority of cases, we can rely on each side to preserve evidence and to disclose relevant information when asked (and sometimes even before then) without being forced to proceed at the point of a court order. See Cine Forty-Second St. Theatre Corp. v. Allied Artists Pictures Corp., 602 F.2d 1062, 1068 (2d Cir. 1979) (observing that "embroil[ing] trial judges in day-to-day supervision of discovery" is "a result directly contrary to the overall scheme of the federal discovery rules"). The courts are ill-equipped to address parties that do not voluntarily comply: we do not have our own investigatory powers, and even if we did, the spoliation of evidence would frequently be extremely difficult for any outsider to detect.

Moreover, noncompliance vastly increases the cost of litigation by drawing out deadlines and necessitating motion practice. But "[a]n undertaking on the scale of the large contemporary suit brooks none of the dilation, posturing, and harassment once expected in litigation." Id. at 1067–68. Accordingly, we have held that discovery sanctions are proper even against parties who have belatedly complied with their obligations, because an alternative rule "would encourage dilatory tactics, and compliance with discovery orders would come only when the backs of counsel and the litigants were against the wall." Id. at 1068; see also S. New Eng. Tel. Co. v. Glob. NAPs Inc., 624 F.3d 123, 149 (2d Cir. 2010). When, as a result of an opponent's persistently uncooperative behavior, it appears reasonable ex ante to conduct expensive corrective discovery efforts, we see no reason why the party required to undertake those efforts should not be compensated simply because it eventually turned out that the obstructive conduct had hidden nothing of real value to the case. Those costs must be placed on the uncooperative opponent in order to deter recalcitrant parties from the cavalier destruction or concealment of materials that the law requires them to retain and disclose.



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Continuing this conduct of spoliation, in Ms. Valenzuela's deposition, she advised that there was a folder for David TPO, LLC and that it included all records for that business. See Deposition of Edivict "Stefani" Valenzuela, dated June 18, 2018 at 71:4-73:2 (hereafter "Stefani Dep at ____"). Apparently, Mr. Stewart took it with him and refused to either acknowledge its existence to my client or produce it in discovery. My clients have a good faith belief that this folder would also prove the allegations against Mr. Stewart and David TPO, LLC.

Therefore, it is evident that Defendants not only have refused to comply with discovery but have willfully withheld relevant documentation as to this case and made false claims to hide us from obtaining such documentation. Now, after discovery is over, we learn about the extent of discovery willfully kept and, likely, destroyed at this juncture. Thus, an appropriate sanction should be entered as to the discovery including counsel fees, costs and negative inferences thereto.

Similarly, it is important that Court also take into consideration the efforts made by the defense to bar us access to an important witness to the case. It took months to secure the deposition of Ms. Valenzuela after we sent her a letter seeking to meet with her. We now understand that, upon receipt of the letter, she contacted Mr. Stewart who asked her to meet with his lawyer, Mr. Chen (Stefani Dep at 58:1-23). Taking Ms. Valenzuela's statements as true, Mr. Chen advised her that Rule 11 does not apply and to file preemptively when you have done something wrong, tried to work with her to stop her from being deposed by offering to represent her in bringing her own case against my clients (something she did not seek and was only looking for counsel to represent her during the deposition) and advising her that, if she brought an action against my clients for employment claims, she would not have to testify in this case along with other claims. (Stefani dep at 56:7-65:22).²

This conduct of trying to find a way to stop relevant testimony is improper and appropriate sanctions should be awarded for such conduct as well.³

² A recorded statement was also made of Ms. Valenzuela prior to her deposition during which time, and also on the call, were her lawyer, Steven Schuster, Esq. (a member of the New Jersey bar), and Mr. Kaltner. This is being provided separately to Mr. Chen under our continuing discovery obligations – which have not been reciprocated (See Stewart Dep at 234:1-235:4).

³ Neither my clients nor I are averring any form of misconduct on behalf of Mr. Chen. Rather, we believe that Mr. Stewart told Ms. Valenzuela to talk to Mr. Chen. We believe that Mr. Stewart advised her that Mr. Chen would represent her for free. Thereafter, we believe that Mr. Stewart told Mr. Chen that Ms. Valenzuela wanted to meet him to bring an action against my clients for FLSA violations and to work out a way to not testify in this case. We view the totality of facts as evidence that Mr. Stewart would even seek to deceive his own lawyers in a further attempt to hide evidence which is relevant and shows that Mr. Stewart's defenses are specious at best and, in addition, the companion FLSA case is frivolous and predicated upon falsehoods that – if known – would result in immediate dismissal.



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Along this same issue, Mr. Chen has made himself a fact witness yet again and as tacitly admitted during the May 30th telephone conference. He met telephonically with a fact witness in the case, on his own (Stefani Dep at 61:7-8), and she has made allegations about the conduct which raises questions of fact in this case. On the last telephone conference with the Court on May 30, 2018, the Court warned Mr. Chen, again, of being a witness in the case. We renew our prior statements that he has made himself a fact witness over and over again.

The citations are only a small sampling of the discovery violations confirmed in deposition and we now believe that there is a substantial amount of additional documentation (both in paper and electronically) that have not been identified pursuant to Rule 26 so we would, at the very least, know where to look. Indeed, within the greater than 3,500 pages of text messages (confirmed in the depositions), there are innumerable admissions of wrongdoing by Mr. Stewart that raises questions as to his credibility – not only here but in the companion FLSA case including: seeking money to bring law suits from his friends and colleagues with promises of 15-20% returns (Stewart Dep at 148:9-16; 162:10-22); trying to have others bring lawsuits (Stefani Dep at 26:14-27:9; 54:8-18); discussing how Mr. Stewart was a supervisor at my clients' companies with several people working below him, training them, and creating procedures (Stefani Dep at 20:1-2; 24:17-25:12); that Mr. Stewart had been chastised for causing harm or otherwise failing to do some task properly (Stefani Dep at 107:2-108:1); admissions violations of the noncompete agreements (113:1-114:10).

Consistent with our application, we request that the Court hold a hearing to discuss this motion and set a briefing schedule where the deposition transcripts and totality of facts can be presented to the Court for a proper adjudication. As a common sanction is the imposition of counsel fees, we would request that the Court provide us with an opportunity to produce our time records, in camera or under seal, for the Court's review into a proper loadstar award.

We thank the Court for its consideration of the within request. Should the Court have any questions, I am at Your Honor's disposal.

Respectfully submitted,

Joshua M. Lurie, Esq.

JML:me

cc: Jacob Chen, Esq. (via ECF)

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EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK
3 CIVIL CASE NO. 7:16-cv-09337-KMK-LMS
4 GEORGE KALTNER (individually); COMPLIANT DIALER INC.
d/b/a AVATAR OUTSOURCING; VOICELESS TECHNOLOGIES
INC., SALES TECHNOLOGIES, INC., (defunct); and
AVATAR TECHNOLOGIES, INC., (defunct),

5
6 Plaintiffs,

7 VS. Deposition of:
8 DAVID STEWART

9 DAVID STEWART (individually); DAVID TPO, LLC (a New
York Limited Liability Company); AVATAR DIALLER,
10 LTD. (a foreign for-profit entity); DIALER360. LTD.
(a foreign for-profit entity); PRIMO DIALLER, LTD.
11 (a foreign for-profit entity); DAVID STEWART (in his
official capacity as an agent of Avatar Dialler,
12 Ltd. and Dialer360, Ltd.); DAVID STEWART (in his
official capacity as the managing or controlling
13 member of David TPO, LLC); AVATARDIALLER.COM (an
internet domain name); JOHN DOES 1-80 (fictitious
14 name to represent owners, operators, employees,
directors, managers, and individuals with
15 controlling interests in Avatar Dialler, Ltd.,
Dialer360, Ltd. and/or Primo Dialler, Ltd.); and
16 CORPORATIONS A-1 (fictitious name to represent
business entities with controlling interests in
17 Avatar Dialler, Ltd., Dialer360, Ltd. and/or Primo
Dialler, Ltd.),

18
19 Defendants.

20 - - -
21 JUNE 5, 2018
22 - - -

23 REPORTED BY: ASHLEY L. GRABOWSKI

24
25 Job No. NJ2930894

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| <p style="text-align: right;">Page 2</p> <p>1 Transcript of the deposition of DAVID STEWART, 2 called for Oral Examination in the above-captioned 3 matter, said deposition taken pursuant to Supreme 4 Court Rules of Practice and Procedure by and before 5 ASHLEY L. GRABOWSKI, a Shorthand Reporter and Notary 6 Public for the State of New York, at the offices of 7 DAI and ASSOCIATES, P.C. 1500 BROADWAY, 22ND FLOOR, 8 NEW YORK, NEW YORK 10036, commencing at 11:32 P.M. 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> | <p style="text-align: right;">Page 4</p> <p>1 I N D E X 2 WITNESS DIRECT CROSS REDIRECT 3 DAVID STEWART 4 BY: MR. LURIE 17 5 E X H I B I T S 6 PAGE # DESCRIPTION ID 7 35 NON COMPETE AGREEMENT 1 8 47 FACEBOOK 2 9 48 AGREEMENT 3 10 53 FACEBOOK 4 11 56 FACEBOOK 5 12 61 FACEBOOK 6 13 74 MESSAGE 7 14 136 TEXTS 8 15 138 TEXTS 9 16 141 TEXTS 10 17 147 TEXTS 11 18 150 AGREEMENT 12 19 161 TEXTS 13 20 162 FORWARDED COMMUNICATIONS 14 21 166 TEXTS 15 22 169 TEXTS 16 23 180 TEXTS 17 24 219 TEXTS 18 25 224 FACEBOOK 19 & 20</p> |
| <p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: 2 JOSHUA M. LURIE, ESQ. Lurie Strupinsky, LLP 3 2 University Plaza Drive, Suite 100 Hackensack, New Jersey 07601 4 ATTORNEYS FOR PLAINTIFFS 5 JACOB CHEN Dai and Associates P.C. 6 1500 Broadway, 22nd Floor New York, New York 10036 7 ATTORNEY FOR DEFENDANTS 8 ALSO PRESENT: GREGGORY HOLDERMAN (VIDEOGRAPHER) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> | <p style="text-align: right;">Page 5</p> <p>1 R E Q U E S T S 2 DESCRIPTION PAGES 3 NONE 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> |

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| <p style="text-align: right;">Page 6</p> <p>1 STIPULATIONS</p> <p>2</p> <p>3 IT IS HEREBY STIPULATED AND AGREED by and</p> <p>4 between the attorneys for the respective parties</p> <p>5 herein, that the sealing, filing and certification</p> <p>6 of the within Examination Before Trial be waived;</p> <p>7 that all objections, except as to form, are reserved</p> <p>8 to the time of trial;</p> <p>9 That the transcript may be signed before any</p> <p>10 Notary Public with the same force and effect as if</p> <p>11 signed before a Clerk or Judge of the Court;</p> <p>12 That this Examination Before Trial may be</p> <p>13 utilized for all purposes as provided by the CPLR;</p> <p>14 That all rights provided to all parties by</p> <p>15 the CPLR shall not be deemed waived and the</p> <p>16 appropriate sections of the CPLR shall be</p> <p>17 controlling with respect thereto.</p> <p>18 IT IS FURTHER STIPULATED AND AGREED by and</p> <p>19 between the attorneys for the respective parties</p> <p>20 hereto that a copy of this Examination Before Trial</p> <p>21 shall be furnished, without charge, to the attorney</p> <p>22 representing the witness testifying herein.</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 8</p> <p>1 It's 11:15 A.M. after being noticed; so he's an</p> <p>2 hour and fifteen minutes late. I have been</p> <p>3 prepared to go for approximately an hour at</p> <p>4 this juncture.</p> <p>5 THE CLERK: Okay.</p> <p>6 MR. LURIE: And this is obviously of an</p> <p>7 issue due to the cost for the deposition. We</p> <p>8 have both a videographer and a court reporter</p> <p>9 present. They have been present since at least</p> <p>10 10 o'clock this morning. And additionally,</p> <p>11 there have been legal fees which have been</p> <p>12 expended sitting here and waiting for the</p> <p>13 deponent to appear.</p> <p>14 So, my issue was, I don't know how the</p> <p>15 magistrate wants to attend to this, since</p> <p>16 depositions were a significant issue at the</p> <p>17 last conference call last week, including the</p> <p>18 scheduling of the depositions for today.</p> <p>19 THE CLERK: So, I'm a little unclear as to</p> <p>20 what the issue is. The deposition was noticed</p> <p>21 for 10 A.M. The deponent got in at 11:15 A.M.</p> <p>22 You're prepared to depose this witness for an</p> <p>23 hour, and I guess the issue is that the hour</p> <p>24 and fifteen minute period that you were</p> <p>25 waiting, you want to be -- you want to assess</p> |
| <p style="text-align: right;">Page 7</p> <p>1 THE VIDEOGRAPHER: I have begun the</p> <p>2 recording.</p> <p>3 MR. LURIE: Thank you.</p> <p>4 (At this time, a phone call is being</p> <p>5 made to the court.)</p> <p>6 THE CLERK: Judge Smith's chambers.</p> <p>7 MR. LURIE: Yes. Good morning, this a</p> <p>8 Joshua Lurie.</p> <p>9 MR. CHEN: And Jacob Chen.</p> <p>10 MR. LURIE: And we have a, a deposition</p> <p>11 that was scheduled this morning. And we would</p> <p>12 like to speak with the magistrate with respect</p> <p>13 to an issue with it.</p> <p>14 THE CLERK: Okay. Can you just describe</p> <p>15 what the issue is, please?</p> <p>16 MR. LURIE: Sure. The deposition was</p> <p>17 noticed for 10 o'clock in the morning. I, this</p> <p>18 is Joshua Lurie. I'm plaintiff's counsel. I</p> <p>19 called. I was stuck in a little bit of</p> <p>20 traffic, to advise that I was running a little</p> <p>21 late, and we may wind up starting around 10:30.</p> <p>22 THE CLERK: Okay.</p> <p>23 MR. LURIE: At 10:45, the deponent still</p> <p>24 had not arrived. Turns out that he apparently</p> <p>25 mistook the dates. He just appeared, now.</p> | <p style="text-align: right;">Page 9</p> <p>1 costs for that period?</p> <p>2 MR. LURIE: For an hour period on that,</p> <p>3 yes. Because once again, I did call and say</p> <p>4 that the deposition may start as late as 10:30,</p> <p>5 due to New York City traffic. The deposition</p> <p>6 is taking place in Times Square. So we're</p> <p>7 talking about approximately a one-hour period</p> <p>8 of time that has been unnecessarily wasted due</p> <p>9 to the deponent not appearing timely.</p> <p>10 THE CLERK: And this is the defendant's</p> <p>11 30B6 witness?</p> <p>12 MR. LURIE: No. This is the defendant</p> <p>13 himself.</p> <p>14 THE CLERK: Oh, the defendant himself.</p> <p>15 MR. LURIE: This is the -- yes, this is</p> <p>16 the Kaltner V Stewart and this is the</p> <p>17 deposition of David Stewart.</p> <p>18 THE CLERK: Okay. Um --</p> <p>19 MR. CHEN: So this is Jacob Chen on behalf</p> <p>20 of Mr. Stewart. I had a preparation session</p> <p>21 with Mr. Stewart yesterday. I told him about</p> <p>22 the deposition that was taking place on</p> <p>23 Thursday, and apparently he misunderstood me.</p> <p>24 He got that date in his head, and he thought</p> <p>25 that was the actual date of the deposition, not</p> |

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| <p style="text-align: right;">Page 10</p> <p>1 realizing what I meant was that that's the 2 deposition of the plaintiffs, which I invited 3 him to attend if he has time available. So he 4 didn't realize that the deposition was today 5 until we were able to reach him, and then he 6 immediately headed down as quickly as he was 7 able to, and is here now and is ready to 8 proceed with the deposition. 9 THE CLERK: Right, right. Okay. Hold on 10 one second. Let me see if the judge is around. 11 MR. LURIE: Thank you. 12 THE VIDEOGRAPHER: Just a reminder, I'm 13 still recording. 14 THE JUDGE: Good morning, counsel. 15 MR. LURIE: Good morning, Judge. 16 MR. CHEN: Good morning. 17 THE JUDGE: What seems to be the problem? 18 MR. LURIE: Your Honor, as we mentioned to 19 your clerk, this -- we're here for the 20 deposition of Mr. Stewart. It was noticed for 21 10 o'clock this morning. I was stuck in a 22 little bit of traffic getting through into the 23 city. The deposition is taking place as Mr. 24 Chen's office in Times Square. I emailed Mr. 25 Chen saying, I'm stuck in a little bit of</p> | <p style="text-align: right;">Page 12</p> <p>1 able to begin due to Mr. Stewart's failure to 2 timely appear, even if he was confused with 3 respect to the deposition date. While counsel, 4 I'm sure will make his point about this, he had 5 a deposition prep session yesterday, which was 6 just told to your law clerk, your Honor's law 7 clerk; and he confused the dates after that? I 8 really don't understand what's happened. But 9 once again, we've been sitting here waiting. 10 We have both the videographer and the court 11 reporter as noticed. And we've been ready to 12 go. We're being assessed costs for the time 13 that we were sitting waiting. My client's 14 being assessed legal fees for the time sat -- 15 that he's sat waiting. And as trivial as this 16 sounds, Judge, I drove into the city, parking 17 in the parking lot, a cost that would be 18 assessed to my client. I'm not going to make 19 the early bird release from the parking garage, 20 which is an additional cost that my client -- 21 should not have been subject to, which is the 22 result of Mr. Stewart's failure to appear at 23 the time that he was noticed. 24 MR. CHEN: Your Honor, this a Jacob Chen 25 on behalf of Mr. Stewart. During yesterday's</p> |
| <p style="text-align: right;">Page 11</p> <p>1 traffic; and the deposition may start as late 2 as 10:30. I did arrive at the office 3 approximately 10 o'clock, which was the noticed 4 time for the deposition. At that point Mr. 5 Chen popped in his head and said, I thought we 6 were going to be about 10:30. I said, that's 7 fine. 8 At 10:30 the deposition did not begin. I 9 spoke to Mr. Chen who advised me that he was -- 10 his client was not here. He had not advised 11 his client in advance that I had asked to be a 12 little bit later, and he was unable to reach 13 him at that time. At 10:45, now I've been 14 sitting here for, and ready to go with the 15 deposition for about a half an hour, Mr. Chen 16 comes back in, says that he was able to get in 17 touch with his client, that his client had a 18 mistake with respect to the dates and was on 19 his way. 20 Mr. Stewart appeared here approximately 21 the same time that we called up the court, 22 which was at 11:15. So for approximately one 23 hour, we've been sitting here waiting to be 24 able to begin this deposition. And at the very 25 least, 45 minutes from when we should have been</p> | <p style="text-align: right;">Page 13</p> <p>1 preparation session, I had invited him to the 2 deposition of Mr. Kaltner, which was taking 3 place on Thursday. But I think I mixed up to 4 the dates; so when I told him that, I think I 5 mixed up the dates in his mind; and he thought 6 the deposition was taking place on Thursday. 7 As soon as I called him -- as soon as I was 8 able to reach him, he immediately headed down 9 from work. And he is now here. And he's 10 prepared to have his deposition taken. 11 And I understand where Mr. Lurie is coming 12 from, but it's an honest mistake on his part. 13 He was not trying to cause Mr. Lurie to miss 14 the early bird special on his parking garage. 15 You know, and he's here. He's ready to be 16 deposed and ready to have his questions taken. 17 And immediately as soon as I advised him, he -- 18 as soon as I reached him, he left work and came 19 down here and is repaired to have his questions 20 taken. 21 THE JUDGE: So Mr. Lurie, if this was 22 essential to raise this with the court right 23 now to further delay the deposition so that you 24 could satisfy yourself that your client would 25 be reimbursed for this amount of costs? This</p> |

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| <p style="text-align: right;">Page 14</p> <p>1 is not something you could have submitted on 2 paper tomorrow, for example, in order to use 3 the time that you have wisely? Is that right? 4 MR. LURIE: Your Honor, respectfully, Mr. 5 Stewart when we called the court was not here. 6 He arrived after we started making this call 7 and preparing for it. 8 MR. CHEN: That's not the case. He 9 arrived and then we made the call. 10 THE JUDGE: You said to me moments ago 11 that he arrived at the same time that the first 12 call was being made, at which point it was 13 possible to say, oh, I'm sorry, we'll make a 14 submission to the court. 15 I just don't understand, Mr. Lurie. You 16 knew he was on his way. You couldn't wait five 17 more minutes? Okay. Maybe you couldn't. But 18 this still required calling back. Not a good 19 use of your time. Go forward with the 20 deposition. Make your application in writing. 21 MR. LURIE: Yes, Judge. 22 MR. CHEN: Thank you, your Honor. 23 THE VIDEOGRAPHER: All right. I'm going 24 to stop this recording. 25 (A short break was taken.)</p> | <p style="text-align: right;">Page 16</p> <p>1 also from Veritext. I'm not authorized to 2 administer an oath. I'm not related to the 3 parties in this action, nor am I financially 4 interested in the outcome. 5 Counselors, would you please identify 6 yourselves and state whom you represent for the 7 record? 8 MR. LURIE: Good morning. Joshua Lurie, 9 L-U-R-I-E. And I'm here on behalf of the 10 plaintiffs; Compliant Dialer, Inc.; Avatar 11 Technologies, Inc.; Sales Technologies, Inc.; 12 Voiceless Technologies, Inc.; and George 13 Kaltner. 14 MR. CHEN: And this is Jacob Chen from Dai 15 and Associates on behalf of Mr. Stewart. 16 THE VIDEOGRAPHER: Thank you. Will the 17 court reporter please swear in the witness? 18 (At this time, the witness was sworn 19 in by the court reporter.) 20 21 22 23 24 25</p> |
| <p style="text-align: right;">Page 15</p> <p>1 THE VIDEOGRAPHER: We are now on the 2 record. The time on the video monitor is 11:30 3 A.M. on June 5th, 2018. Please note that the 4 microphones you're wearing are sensitive. They 5 can pickup whispering, private conversations, 6 just something to be aware of throughout the 7 deposition. Also, if you can, please turn off 8 your cell phones. I understand if you're 9 unable to do so. Please just keep them away 10 from the wires in the center of the table and 11 the wires that you're wearing, as they can 12 interfere with the deposition audio. 13 Recording will continue until all parties 14 agree to go off the record. This is media unit 15 number one during the video recorded deposition 16 of David Stewart in the matter of George 17 Kaltner, et al, V. David Stewart, et al, filed 18 in the United States District Court for the 19 Southern District of New York, case number 20 7:16-CV-09337-KMK-LMS. This deposition is being 21 held at Dai and Associates, P.C., located at 22 1500 Broadway, New York, New York. 23 My name is Gregory Holderman. I'm the 24 videographer from the firm Veritext, New York. 25 Our court reporter today is Ashley Grabowski,</p> | <p style="text-align: right;">Page 17</p> <p>1 DAVID STEWART, using the address of 610 West 150 2 Street, Apartment 5-J, New York, New York 10031, 3 having been duly sworn by the Notary, testified as 4 follows: 5 DIRECT EXAMINATION BY: MR. LURIE 6 Q Good morning, Mr. Stewart. 7 A Good morning. 8 Q My name is Joshua Lurie. I represent 9 Compliant Dialer, Inc.; Avatar Technologies, Inc.; 10 Sales Technologies, Inc.; Voiceless Technologies 11 Inc. and George Kaltner in this matter. Before we 12 begin, I have some preliminary questions for you. 13 Other than in the companion case to this 14 matter, which is the FLSA matter being litigated in 15 the Southern District between the same parties, have 16 you ever been deposed? 17 A No. I don't think so. 18 Q Are you currently under the influence of 19 any drugs or alcohol that may impair your ability to 20 give truthful testimony today? 21 A No. 22 Q And are you able to provide me with true 23 and complete answers today? 24 A Yes, I can. 25 Q Now, I apologize that this is going to be</p> |

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| <p style="text-align: right;">Page 18</p> <p>1 a little bit representative. There are just the 2 general ground rules. I do this in every single 3 deposition. It just makes things work a little bit 4 easier. This is a deposition, while taking place in 5 this informal setting in your attorney's office, 6 you're here to provide testimony. Testimony is the 7 same as if you were testifying in court. The court 8 reporter to my right, to your left, will be taking 9 everything down that we say, and the videographer is 10 recording everything that we say today. The court 11 reporter at the end will create a transcript, which 12 could be read in court as though you've testified to 13 the statements in the transcript. Do you 14 understand? 15 A Yes. 16 Q Now, because this is being recorded, in 17 two different ways, it's very important that a few 18 guide lines are met. The first is that we do not 19 talk over one another. Please allow me to finish my 20 question before providing any answer. If we speak 21 at the same time, the court reporter cannot properly 22 keep track of the discussion. Do you understand? 23 A Yes. 24 Q Okay. All of your answers must be verbal, 25 that has with words. Yes, no. Please do not use</p> | <p style="text-align: right;">Page 20</p> <p>1 answers. Do you understand? 2 A Yes. 3 Q When you are answering a question, I 4 expect you to provide me with the true and complete 5 responses. Are you able to provide true and 6 complete responses today? 7 A Yes. 8 Q If I ask you for something specific and 9 you cannot provide specifics, do not guess. We do 10 not want guesses. You may estimate it, if possible. 11 Also, if you do not know the answer, that's 12 perfectly acceptable as well. You can tell me you 13 don't know the answer. However, please do remember, 14 if do provide an answer to the question, we will 15 rely upon your statement, and we will construe it as 16 any response that you understood the question, that 17 you're being precise and you're being true, 18 accurate, and complete in your response. Do you 19 understand? 20 A Yes. 21 Q At any time you need a break to use the 22 bathroom or for any or reason, please let me know. 23 This is not an endurance test for you. However, I 24 will ask that if there's any pending question that 25 you finish answering it. Do you understand?</p> |
| <p style="text-align: right;">Page 19</p> <p>1 nonverbal responses, such as shaking your head, or 2 nodding, or using verbal sounds such as uh-huh or 3 uh-uh. So, while it may make sense on the video 4 recording, it will not make sense on the transcript. 5 It won't properly translate to the transcript. Do 6 you understand? 7 A Yes. 8 Q At times your attorney may object to my 9 questions. Most often, these are objections to the 10 form of the question and meant to preserve the 11 record. You will still be required to answer the 12 question if you can. The only times you should not 13 answer my question is if you were specifically 14 directed not to. Typically, this is because of a 15 legal privilege. It's possible that we attorneys 16 may have a brief discussion, either within your 17 presence or in certain circumstances ask you to 18 excuse us, so we can discuss the issue outside of 19 your presence. Do you understand? 20 A Yes. 21 Q If you cannot provide an answer because 22 you cannot understand the question, please let me 23 know. It's very possible that I've asked a question 24 which is confusing. We don't want you to be 25 confused. We want you to provide true and complete</p> | <p style="text-align: right;">Page 21</p> <p>1 A Yes. 2 Q Now, this is where it's a little bit 3 interesting. I understand that you've been deposed 4 in the companion case; and I'm going to do my best 5 not to repeat those questions. However, at some 6 points, that just may be inevitable. We generally 7 have been instructed by the court not to seek 8 testimony about any of these issues, which you've 9 already answered in your prior deposition. So if I 10 start going down that line of questions, which has 11 already been in the other deposition, we will likely 12 stop. And your attorney will likely advise me that 13 this was already asked at the other deposition in 14 depth. That's not to say there maybe little points 15 that we may touch on that, but just be prepared that 16 there may be some interruptions if we start going 17 down a sort of questioning route that we have 18 already addressed in another deposition. 19 Now, final rule is, once we begin, you're 20 not to speak with your attorney about anything with 21 respect to the case until the deposition is 22 concluded. You're under oath and providing 23 testimony. Therefore, you've had an opportunity to 24 speak with your lawyer with respect to this 25 deposition?</p> |

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| <p style="text-align: right;">Page 22</p> <p>1 A Yes.</p> <p>2 Q Do you need any additional time to speak</p> <p>3 with him before we begin?</p> <p>4 A I would always take time, you know, if</p> <p>5 it's --</p> <p>6 Q Do you require any additional time with</p> <p>7 your attorney before we begin?</p> <p>8 A Oh, yeah. I'll take time.</p> <p>9 MR. LURIE: Let's go off the record for</p> <p>10 five minutes.</p> <p>11 THE VIDEOGRAPHER: We are now off the</p> <p>12 record. The time on the video monitor is 11:38</p> <p>13 A.M.</p> <p>14 (A short break was taken.)</p> <p>15 THE VIDEOGRAPHER: We are now on the</p> <p>16 record. The time on the video monitor is 11:40</p> <p>17 A.M.</p> <p>18 Q We're back on the record. You had a</p> <p>19 moment to step outside and speak with your attorney</p> <p>20 before we begin. Have you reviewed any documents in</p> <p>21 order to prepare yourself for today?</p> <p>22 A Yes.</p> <p>23 Q What did you look at to prepare for today?</p> <p>24 A There was, like, three documents. I don't</p> <p>25 remember their names. I just --</p> | <p style="text-align: right;">Page 24</p> <p>1 A Yeah.</p> <p>2 Q Please -- now, in this case, you've</p> <p>3 produced approximately 600 pages of documents. Is</p> <p>4 that accurate?</p> <p>5 A I'm not sure.</p> <p>6 Q A substantial --</p> <p>7 A It could be 600 or more.</p> <p>8 Q A substantial amount of documents,</p> <p>9 correct?</p> <p>10 A Yes.</p> <p>11 Q Can you tell me what you did to search for</p> <p>12 the documents that you produced?</p> <p>13 A I believe they were part of the laptop</p> <p>14 that I used personally and while I was working.</p> <p>15 MR. CHEN: I do want to state to state on</p> <p>16 the record that in addition to the documents he</p> <p>17 produced, he turned over access to his online</p> <p>18 email accounts, turned over access to his</p> <p>19 online social media accounts, and turned over</p> <p>20 his phone and laptop for a clone to be made.</p> <p>21 So, in addition to the paper documents he</p> <p>22 produced, he also turned over authorizations</p> <p>23 and a tremendous amount of digital documents.</p> <p>24 MR. LURIE: Yes. Thank you, counsel.</p> <p>25 Q At this point, I'm just interested in what</p> |
| <p style="text-align: right;">Page 23</p> <p>1 Q Could you describe the documents?</p> <p>2 A Interrogatories, the complaint, and the</p> <p>3 notice to show.</p> <p>4 Q I'm sorry. When you say notice to show,</p> <p>5 what does that mean?</p> <p>6 A To appear here.</p> <p>7 Q So your deposition notice?</p> <p>8 A Yes.</p> <p>9 Q So you did receive a copy of the discovery</p> <p>10 request of the deposition notice, the</p> <p>11 interrogatories, and also discovery requests in this</p> <p>12 matter?</p> <p>13 A Um, yeah.</p> <p>14 Q Did you review them?</p> <p>15 A To an extent, yeah.</p> <p>16 Q Did anyone except for your attorney, or</p> <p>17 anyone working for your attorney, help you to answer</p> <p>18 any of those interrogatories --</p> <p>19 A No.</p> <p>20 Q Once again, wait for me to finish the</p> <p>21 question.</p> <p>22 A No.</p> <p>23 Q It's for the court reporter's benefit.</p> <p>24 It's normal in a conversation. You know where I'm</p> <p>25 going, and you want to just jump in, but --</p> | <p style="text-align: right;">Page 25</p> <p>1 you personally did in order to collect documents,</p> <p>2 which were provided pursuant to the discovery</p> <p>3 requests. We'll get a little bit more into that in</p> <p>4 a second. I apologize. These are just general</p> <p>5 questions that I ask at every deposition. Have you</p> <p>6 ever been convicted of any crime, misdemeanor,</p> <p>7 felony, or anything like that?</p> <p>8 A No.</p> <p>9 Q Have you ever been involved in any other</p> <p>10 civil lawsuits besides -- just for the ease of this</p> <p>11 -- this matter and it's companion case, as well as</p> <p>12 the department of labor case where all the parties</p> <p>13 are the same?</p> <p>14 A There was something from the Philippines</p> <p>15 that was issued by your client to me.</p> <p>16 Q Is that the only other civil action that</p> <p>17 you've been involved in?</p> <p>18 A To the best of my knowledge, yeah.</p> <p>19 Q Do you understand what I mean when I say a</p> <p>20 civil action?</p> <p>21 A Meaning -- explain a little further.</p> <p>22 Q What I mean by this, anything where there</p> <p>23 are two private parties who are suing one another</p> <p>24 for monetary damages or to be directed to do</p> <p>25 something, or -- let me correct this. I'll make</p> |

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| <p style="text-align: right;">Page 26</p> <p>1 this a little bit easier. Anything where your 2 liberty or money cannot be taken from a court, 3 specifically a criminal action. So basically 4 anything that's not a criminal action, have you been 5 -- 6 A So would something like in small claims 7 court matter? 8 Q Yes. Have you had small claims court 9 action? 10 A I probably had two of those, maybe. 11 Q What were they with respect to? 12 A I don't recall. 13 Q Do you recall approximately when those 14 took place? 15 A About prior to 2011. 16 Q Were they in collection on credit card 17 type cases, motor vehicle accident? 18 A Oh, no. It was seizure of my computers. 19 Q Seizure of your computers? 20 A Yeah. 21 Q What does that mean? 22 A I was working with George Kaltner and 23 Oscar, and I brought my personal laptop to the 24 company; and they didn't pay the bill. And the guy 25 went and seized the laptop. And so I went to file</p> | <p style="text-align: right;">Page 28</p> <p>1 represent, approximately 600 pages of paper 2 documents, which you directly produced, not 3 including anything electronically obtained. And 4 that was through both discovery, as well as attached 5 to various pleadings. Does that sound about 6 accurate? 7 A I would assume based on your numbers, I 8 could only go by that because I don't have this 9 document, you know, in front of me. 10 Q I understand. But you provided your 11 attorney with a sizable amount of documents and 12 said, here this is what you need to answer these 13 discovery requests? 14 A Yes. 15 Q And many of those documents were either 16 emails or documents from the time that you were 17 providing service to my client. Is that correct? 18 A Repeat that again. 19 Q Sure. Maybe this will -- we should step 20 back a little bit. 21 A Mm-hmm. 22 Q I know that there's a dispute about this, 23 so I'm not going to utilize anything. So if it 24 works out just to make this for the ease because of 25 the dispute, can we agree that we will say that you</p> |
| <p style="text-align: right;">Page 27</p> <p>1 for my equipment. 2 Q So you went to a court because of a prior 3 job. You had brought in a personal laptop, and the 4 owner of that business took it? 5 A Yes. The owner of the space. 6 Q The owner of the space took that. Okay. 7 And what was the outcome of that matter? 8 A I lost. 9 Q You lost? 10 A Yeah. 11 Q Okay. Was there a trial? 12 A Um, I don't remember. It was, um, I went 13 there about three times; and the judge ruled against 14 it. After -- I don't remember too much about it. 15 It was -- 16 Q Where was this court? Which court was 17 this? 18 A Um, small claims in Harlem. 122nd in east 19 side. 20 Q So this would be the city court of New 21 York City, small claims? 22 A To the best of my knowledge, yeah. 23 Q Now, we started talking a little bit about 24 these documents produced, that you produced in this 25 case. There are approximately -- and I will</p> | <p style="text-align: right;">Page 29</p> <p>1 were providing services to my client? That way, 2 we're not arguing about employment, versus 3 nonemployment? We're just talking about services 4 provided. Is that fair? 5 MR. CHEN: Sure. 6 Q There was a time you were providing 7 services to my client, correct? 8 A I wouldn't call it services. I would call 9 it, I was an employee. 10 MR. CHEN: But just because we don't want 11 to spend, you know, two hours of, you know -- 12 every time the question is asked -- 13 THE WITNESS: Why not just go with 14 employee of the client? 15 MR. CHEN: Mr. Lurie is not going to say 16 that you were an employee. And every time he 17 asks you -- he doesn't want to have so stay, 18 you know, we understand there's a dispute as to 19 whether or not you were an employee. And were 20 his questions, you know, very long, paragraph 21 format in which the entire record gets messed 22 up. 23 THE WITNESS: In my frame of mind, you 24 know, it throws me off. I want to be honest, 25 that you know, if I'm providing service and I'm</p> |

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| <p style="text-align: right;">Page 30</p> <p>1 a contractor --</p> <p>2 MR. CHEN: So for the convenience of</p> <p>3 everyone when Mr. Lurie asks you, did you</p> <p>4 provide -- when he asks you about the services</p> <p>5 you provided, everyone understands that you are</p> <p>6 not admitting that you were an independent</p> <p>7 contractor. He's not going to say that because</p> <p>8 you said you provided services. You were an</p> <p>9 independent contractor. And that clears</p> <p>10 everything up.</p> <p>11 THE WITNESS: Okay.</p> <p>12 MR. LURIE: Yes. And once again it's</p> <p>13 because, we attorneys are not here to testify.</p> <p>14 It's to obtain your information. And I don't</p> <p>15 want to make disputes at this point. This is</p> <p>16 to get information. So once again, utilizing</p> <p>17 that term. There was a period of time that you</p> <p>18 were providing services for my clients,</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 MR. CHEN: Just one more note. When you</p> <p>22 say your clients, I understand you're here on</p> <p>23 the capacity representing Mr. Kaltner,</p> <p>24 Compliant Dialer --</p> <p>25 MR. LURIE: Compliant.</p> | <p style="text-align: right;">Page 32</p> <p>1 Outsourcing?</p> <p>2 A No.</p> <p>3 Q Generally you were providing services for</p> <p>4 George Kaltner?</p> <p>5 A Yes.</p> <p>6 Q So during that time, you had access to an</p> <p>7 email account with these business entities?</p> <p>8 A Yes.</p> <p>9 Q And you had access to various documents as</p> <p>10 a result of your providing services for these</p> <p>11 business entities, correct?</p> <p>12 A Yes.</p> <p>13 Q And in producing documents in this case,</p> <p>14 many of these documents were emails from those</p> <p>15 business email accounts, correct?</p> <p>16 A Yes.</p> <p>17 Q And many of them were documents that you</p> <p>18 came into possession of while you were providing</p> <p>19 services for those entities, correct?</p> <p>20 A Yes.</p> <p>21 Q When -- jump a little bit forward. In</p> <p>22 approximately April of 2014, you ceased providing</p> <p>23 services. There's a dispute. I don't want to get</p> <p>24 into the dispute aspect of it, but you were no</p> <p>25 longer providing services for these entities,</p> |
| <p style="text-align: right;">Page 31</p> <p>1 MR. CHEN: Compliant Dialer. But also</p> <p>2 Avatar Philippines and a number of entities.</p> <p>3 MR. LURIE: Avatar Philippines is not a</p> <p>4 party to this action. Voiceless Technologies.</p> <p>5 MR. CHEN: You represent a number of</p> <p>6 entities, and we're not discussing which --</p> <p>7 MR. LURIE: Not at all.</p> <p>8 MR. CHEN: -- entities that you're</p> <p>9 providing services for, just that you represent</p> <p>10 a number of entities that he provided services</p> <p>11 to, a number of entities without your</p> <p>12 questioning or prejudicing anyone in one way or</p> <p>13 another about which entities he provided</p> <p>14 services for.</p> <p>15 MR. LURIE: Yes. To make this even</p> <p>16 simpler, at some point you were providing</p> <p>17 services to, at the very least, a company</p> <p>18 called Sales Technologist Inc., correct?</p> <p>19 A Yes.</p> <p>20 Q Avatar Technologies, Inc.?</p> <p>21 A Yes.</p> <p>22 Q And a company towards the very end, at</p> <p>23 least, that was called Avatar Outsourcing, Inc.?</p> <p>24 A Never.</p> <p>25 Q You didn't provide services for Avatar</p> | <p style="text-align: right;">Page 33</p> <p>1 correct?</p> <p>2 A Yes.</p> <p>3 Q Why didn't return these documents to these</p> <p>4 companies?</p> <p>5 A At the time of my firing, the documents</p> <p>6 was requested at the time. But I had a lot of</p> <p>7 devices that had this information on it.</p> <p>8 Q You didn't go through them looking for</p> <p>9 these documents that were business records to return</p> <p>10 them?</p> <p>11 A No.</p> <p>12 Q You didn't go to destroy them?</p> <p>13 A No. It was never asked of me. It wasn't</p> <p>14 in the policy or -- never -- no one -- you know.</p> <p>15 Q Do you believe that you -- strike that.</p> <p>16 Some of these were confidential business records,</p> <p>17 correct?</p> <p>18 A I'm not sure.</p> <p>19 Q There were internal discussions with</p> <p>20 accountants regarding the finance of the business,</p> <p>21 correct?</p> <p>22 A I would have to see a few just to fully --</p> <p>23 Q Let's go through a couple of these. Do</p> <p>24 you recall producing in this case any emails with</p> <p>25 the accountants for Avatar Technologies?</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 A Avatar Technologies accountants. To the 2 best of my knowledge, yes. 3 Q Why did you have those documents after you 4 ceased providing services for Avatar Technologies? 5 A I had them on my devices. I'm not sure 6 what, you know -- 7 Q Do you recall producing in this case 8 emails between attorneys settling a case in Texas 9 where you were asked to issue a payment? 10 A I would have to take a look. I'm not 11 specific -- 12 Q I'm asking for your recollection. Do you 13 recall providing that to your attorney to produce in 14 this case? 15 A I'm not sure. Like, what, it's -- there's 16 a ton of files. 17 Q Let me ask you this. What was your basis 18 for believing that you could continue to hold 19 documents from your -- the company or companies that 20 you formally provided services for? 21 A Based on the agreement they would have 22 with me. I used -- normally companies would say, 23 have procedures to say, you have return these. I 24 used it on the laptop, personal and for the company. 25 So I don't know how to --</p> | <p style="text-align: right;">Page 36</p> <p>1 Q Has it been your position that the 2 business known as David TPO LLC, while a legal 3 entity was created for the purposes of paying you as 4 an independent contractor, rather than as an 5 employee, is that an accurate representation of your 6 position? 7 MR. CHEN: Sorry. Can you repeat that? 8 Q It was an entity that was created for the 9 purpose of having Avatar Technologies and Sales 10 Technologies Inc. pay you as an independent 11 contractor rather than as an employee? 12 MR. CHEN: Without ascribing to who made 13 the decision to create the company or who made 14 the decision to use the company to make the 15 payments? 16 MR. LURIE: Yes. We're not going down 17 that route, just that that's been your 18 position. Is that a fair assessment? 19 A So David TPO is a company that George 20 created for me to get payments. 21 Q Please. Mr. Stewart -- 22 A I just want to be accurate, 100 percent. 23 Q No. Mr. Stewart, I'm going to be very, 24 very direct with you. Listen to the question, 25 answer the question. If you try to put something on</p> |
| <p style="text-align: right;">Page 35</p> <p>1 Q Let's mark this one as Stewart One. It's 2 a confidentiality non circumvention, non compete 3 agreement between Avatar Technologies Inc. and David 4 TPO, LLC. 5 (Stewart One was marked for 6 identification.) 7 Mr. Stewart, what's being placed before 8 you, which has been marked as Stewart One for 9 identification purposes, I'd ask to you just briefly 10 take a look at this document and tell me if you 11 recognize this document? 12 A Yes, I do. 13 Q Being at the final page of this document, 14 is that your signature? 15 A Yes, it is. 16 Q Now, I understand that your position in 17 this case and the companion case is that, David TPO, 18 LLC is a fictitious business. It's just, you are 19 David TPO, LLC. Is that correct? 20 MR. CHEN: I don't believe that's his 21 position in this case or the companion case. I 22 believe in the companion case. We've stated -- 23 at the legal position we've taken is different 24 from how you characterized it just now. 25 MR. LURIE: Let me put it this way.</p> | <p style="text-align: right;">Page 37</p> <p>1 to the record that is not my question, I will ask 2 you to stop. Listen to my question. Answer my 3 question. David TPO, LLC, was an entity created and 4 we are not going down the route of who told you to 5 create it or whose decision it was. 6 MR. CHEN: Or who created it. 7 Q Or who created it. It was an entity that 8 was created in your position, this has been your 9 position, in order to pay you as an independent 10 contractor and not as an employee. Is that correct? 11 A Yes. 12 Q And so therefore, any contract that was 13 signed for David TPO, LLC would necessarily be a 14 contract with David Stewart, correct? 15 A I see that the contract is signed by me. 16 Q Mr. Stewart -- 17 A But not -- 18 Q Mr. Stewart, once again, please listen to 19 my question and answer my question. If we're going 20 to go down this road, we are not going to be 21 providing answers to my question. I will have 22 another discussion with your attorney off -- without 23 you being present. And I will ask him again to 24 direct you to answer my questions. Has it been your 25 consistent position that David TPO -- strike that.</p> |

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| <p style="text-align: right;">Page 38</p> <p>1 Has it been your position that a business signature 2 for David TPO and in contract with David TPO is 3 really a contract with you? 4 A From what's presented here, this contract 5 was issued to -- 6 MR. LURIE: Okay. Let's go off the 7 record. 8 MR. CHEN: He's answering the question. 9 MR. LURIE: He's not. 10 MR. CHEN: You're asking him for a legal 11 conclusion, whether or not his signature on 12 behalf of David TPO binds him individually. 13 MR. LURIE: Counsel. 14 MR. CHEN: It's a legal conclusion. 15 MR. LURIE: Counsel, I've asked him if 16 it's been his position. And this is the third 17 time that he has -- 18 MR. CHEN: He -- 19 MR. LURIE: Counsel, please allow me to 20 finish my statement. 21 THE WITNESS: I wasn't allowed to finish 22 my statement. 23 MR. LURIE: I would like Mr. Stewart to 24 step out of the room. 25 THE VIDEOGRAPHER: Counsel, I'm still on</p> | <p style="text-align: right;">Page 40</p> <p>1 yes, no, I don't understand. 2 THE WITNESS: Yeah, but my issue is the 3 question is coming in such a frame that based 4 on what I know as truth -- and this is my 5 deposition, I'm speaking the truth -- 6 MR. CHEN: But just listen to Mr. Lurie's 7 question and -- 8 THE WITNESS: Okay. 9 MR. CHEN: -- try your best to answer it 10 as accurately as possible. But if you don't 11 understand, say you don't understand. If you 12 can, though, answer yes or no. Try to answer 13 yes or no. 14 THE WITNESS: All right. I'll give it my 15 best. 16 Q Mr. Stewart, and I mentioned this at the 17 beginning, you're here to provide testimony to my 18 questions, okay? And there's a little bit of a 19 confusion here. This is not your place to set forth 20 any positions that you have with this case. You can 21 do that with your attorney at a separate time. 22 Today you're here to listen to my questions and 23 answer my questions, only my questions. If you are 24 going to refuse to answer my questions because you 25 want to go onto some type of diatribe that is in</p> |
| <p style="text-align: right;">Page 39</p> <p>1 the record. 2 MR. LURIE: I would like Mr. Stewart to 3 step out of the room. 4 THE VIDEOGRAPHER: Should we go off the 5 record? 6 MR. LURIE: I want to go off the record 7 just for the time that he's stepping out. 8 THE VIDEOGRAPHER: Okay. We are now off 9 the record. The time on the video monitor is 10 12:01 P.M. 11 (A short break was taken.) 12 THE VIDEOGRAPHER: We are now on the 13 record. The time on the video monitor is 12:03 14 P.M. 15 MR. CHEN: So, David, if Mr. Lurie asks 16 you a question and he says it's a yes or no 17 question, try to answer yes or no. If you 18 don't understand the question, state that you 19 don't understand. If the question is 20 impossible to answer in a yes or no, then, you 21 know, say that it is impossible to answer in a 22 yes or no and as briefly as possible, explain 23 why. But only if the answer is in fact 24 impossible to answer as yes or no. Otherwise 25 just, you know, be straight forward. Answer</p> | <p style="text-align: right;">Page 41</p> <p>1 favor of your position in this case, we will stop 2 the deposition, we will have the magistrate back on 3 the record, and we will deal with it with the court. 4 So once again, Mr. Stewart, looking at this 5 document, Stewart One for identification purposes, 6 we've already agreed that is your signature on the 7 last page, correct? 8 A Yes, it is. 9 Q Those are your initials on each page? 10 A Yes, it is. 11 Q Did you personally believe that you had to 12 abide by the terms of this agreement? 13 A That's a no. 14 Q You didn't believe that you needed to 15 comply with an agreement that you signed? 16 A I did not believe that. 17 Q Why not? 18 A Because this was something put together 19 for all of the employees, and it was circulated 20 after I had been working there for at least two 21 years. 22 Q So why did you believe that you did not 23 have to comply with this agreement? 24 A Because it was -- I'm not sure what to say 25 about that.</p> |

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| <p style="text-align: right;">Page 42</p> <p>1 Q Well, you previously just testified and 2 said, it's your position that you didn't have to 3 comply with this agreement; and then you testified 4 that the reasoning why was, you were already, quote 5 on quote, employed for about two years before 6 signing this agreement. So, is it correct, then -- 7 is my understanding correct that, because of the 8 fact that you were already providing services for 9 Avatar Technologies Inc. by having a subsequent 10 agreement that you signed, you don't have to abide 11 by the terms?</p> <p>12 A I never read this when I first signed it.</p> <p>13 Q Those are your signatures, correct?</p> <p>14 A Yes.</p> <p>15 Q Those are your initials?</p> <p>16 A Yup.</p> <p>17 Q Is it fair to assume that someone who is 18 looking at this would say you had signed it and 19 agreed to it?</p> <p>20 MR. CHEN: Objection. You can answer.</p> <p>21 A We -- I was the one to distribute this to 22 the office, so I just signed it because everyone 23 else did.</p> <p>24 Q So you distributed this? So you had this 25 in front of you for a period of time?</p> | <p style="text-align: right;">Page 44</p> <p>1 Q And looking on page two --</p> <p>2 MR. CHEN: Let the record reflect that he 3 ended that statement with a question mark in 4 his voice.</p> <p>5 Q Fair. Your attention to the second page, 6 section five, which is return of confidential 7 information. You read this document, this 8 paragraph?</p> <p>9 A Read it.</p> <p>10 Q Now, you previously testified, correct me 11 if I'm wrong, that when you ceased providing 12 services, you were told to return documents; but 13 they were spread across multiple devices, correct?</p> <p>14 A Yup.</p> <p>15 Q So you think that at the very least that 16 you were being told to return any confidential 17 documents that you weren't to retain them?</p> <p>18 MR. CHEN: Could you repeat the question?</p> <p>19 MR. LURIE: Sure.</p> <p>20 Q Do you think at the very least that you 21 were told to return any confidential documents and 22 not retain them?</p> <p>23 A All right. Now that I read that. It does 24 say it.</p> <p>25 Q Why did you retain the documents?</p> |
| <p style="text-align: right;">Page 43</p> <p>1 A Someone -- George sent it to me and said, 2 hey, have everyone sign this. It didn't specify, 3 you know, like -- not even sure.</p> <p>4 Q You didn't think to read it?</p> <p>5 A No.</p> <p>6 Q Why don't you read this now?</p> <p>7 MR. CHEN: For the record, I do want to 8 point out that the document is very small font. 9 It's a photo copy of an original document, 10 where it's shrunk. And it's pretty tightly 11 spaced out. So if you have one in a larger 12 font?</p> <p>13 MR. LURIE: I don't. Unfortunately this 14 is what I have.</p> <p>15 MR. CHEN: Okay.</p> <p>16 A Can I ask a question? What was the period 17 for this confidentiality --</p> <p>18 Q No. You may not ask any questions of me, 19 Mr. Stewart. I just asked to you read this 20 document.</p> <p>21 A Okay. I read some of it, yes.</p> <p>22 Q Okay. What's your understanding of what 23 this agreement is?</p> <p>24 A Confidentiality, non circumvent, non 25 compete agreement.</p> | <p style="text-align: right;">Page 45</p> <p>1 A I had -- to me, this, like -- when this 2 was negotiated, I did not -- I'm not even sure if I 3 ever got a signed copy back from the company. Well, 4 to be honest, I did not think this was executable.</p> <p>5 Q But you previously testified that you 6 didn't even look at it?</p> <p>7 A As I'm reading here. I signed it, and 8 that was it, the day it was issued and passed 9 around.</p> <p>10 Q So, prior to today --</p> <p>11 A Mm-hmm.</p> <p>12 Q -- you've never read this document in 13 depth?</p> <p>14 A I don't think I read this fully or focused 15 on it.</p> <p>16 Q Do you think that it's fair that when you 17 ceased providing services or whatever it is, by a 18 business, that any business records, you should give 19 them back?</p> <p>20 A I don't know how to answer that question.</p> <p>21 Q If you had an employee and you gave them 22 documents for your business, and they stopped 23 working for you, would you expect them to give you 24 your documents back?</p> <p>25 A I've never owned a company, so I'm not</p> |

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| <p style="text-align: right;">Page 46</p> <p>1 sure.</p> <p>2 Q Hypothetical. If you owned a business,</p> <p>3 you gave confidential business documents to your</p> <p>4 employee, terminated the agreement --</p> <p>5 A To my employee? Of course.</p> <p>6 Q To your agent, to your independent</p> <p>7 contractor, anyone. You give them confidential</p> <p>8 business records, okay? And you end that</p> <p>9 relationship. Wouldn't you expect them back?</p> <p>10 A I guess that's what the HR department</p> <p>11 works on. I don't know how that should be.</p> <p>12 Q Do you think you should post them online?</p> <p>13 A I'm not sure what confidential business</p> <p>14 document I posted online, so please help me with</p> <p>15 that.</p> <p>16 Q Do you think that the employment records,</p> <p>17 including all employees of a business on payroll and</p> <p>18 their pay would be considered a confidential</p> <p>19 business record?</p> <p>20 MR. CHEN: I --</p> <p>21 A What company are we discussing?</p> <p>22 Q Not my question. Once again, do you</p> <p>23 believe that a payroll summary including all</p> <p>24 employees of a business and their pay would be</p> <p>25 something that would be a confidential business</p> | <p style="text-align: right;">Page 48</p> <p>1 THE WITNESS: Um.</p> <p>2 Q Mr. Stewart, I placed before you what's</p> <p>3 been marked as Stewart Two for identification</p> <p>4 purposes. Please take a moment to look at this</p> <p>5 document and tell me when you've completed.</p> <p>6 A Yes.</p> <p>7 Q Did you previously utilize a Facebook</p> <p>8 profile where you called yourself Kal El?</p> <p>9 A Yes.</p> <p>10 Q And is this a post that you made under the</p> <p>11 name Kal El?</p> <p>12 A Yes.</p> <p>13 Q And is this the payroll summary for Avatar</p> <p>14 Technologies Philippines Inc.?</p> <p>15 A Yes.</p> <p>16 Q And you provided some services for Avatar</p> <p>17 Technologies Philippines Inc., correct?</p> <p>18 A No.</p> <p>19 MR. CHEN: Who are not a party to this</p> <p>20 litigation?</p> <p>21 MR. LURIE: They're not a party in this</p> <p>22 litigation. They don't exist anymore. Stewart</p> <p>23 three.</p> <p>24 (Stewart Three was marked for</p> <p>25 identification.)</p> |
| <p style="text-align: right;">Page 47</p> <p>1 record?</p> <p>2 MR. CHEN: I object to the questioning in</p> <p>3 so far as a legal conclusion. But you may</p> <p>4 answer, if you know.</p> <p>5 A Payroll of?</p> <p>6 Q Mr. Chen, can you please direct your</p> <p>7 client to answer the question?</p> <p>8 A What was the question?</p> <p>9 MR. CHEN: He asked, are the names of</p> <p>10 employees and how much they're paid, do you</p> <p>11 consider that confidential information?</p> <p>12 THE WITNESS: Yes.</p> <p>13 Q Do you think that should be posted online?</p> <p>14 A No.</p> <p>15 MR. LURIE: Show you what's been -- let's</p> <p>16 mark this as Stewart Two.</p> <p>17 (Stewart Two was marked for</p> <p>18 identification.)</p> <p>19 MR. CHEN: Note my objection that he's not</p> <p>20 qualified to answer whether or not --</p> <p>21 MR. LURIE: It's confidential. I</p> <p>22 understand.</p> <p>23 MR. CHEN: It constitutes as business</p> <p>24 information.</p> <p>25 MR. LURIE: Six pages.</p> | <p style="text-align: right;">Page 49</p> <p>1 Q Mr. Stewart, I placed before you what's</p> <p>2 been marked as Stewart Three for identification</p> <p>3 purposes.</p> <p>4 A Mm-hmm.</p> <p>5 Q Have you ever seen this document before?</p> <p>6 A Yes, I have.</p> <p>7 Q With looking at the last page, third page,</p> <p>8 is that your signature?</p> <p>9 A Yes, it is.</p> <p>10 Q I'm just going to read the first line,</p> <p>11 first sub paragraph of the first page. Please tell</p> <p>12 me if I read this correctly. This agreement is made</p> <p>13 between David A. Stewart, employee and Avatar</p> <p>14 Technologies Philippines Inc. on August 13th, 2014,</p> <p>15 and shall form an integral part of employee's</p> <p>16 contract hereto attached. Did I read that</p> <p>17 correctly?</p> <p>18 A Yes.</p> <p>19 Q So is it still your contention that you</p> <p>20 never provided any services in any way to Avatar</p> <p>21 Technologies Philippines Inc.?</p> <p>22 A Never provided services.</p> <p>23 Q You had an employment agreement with them,</p> <p>24 correct?</p> <p>25 A Yes. Did you see that as an employment</p> |

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| <p style="text-align: right;">Page 50</p> <p>1 agreement?</p> <p>2 Q Never did any auditing for them?</p> <p>3 A Nope. I'm not qualified for doing an</p> <p>4 audit.</p> <p>5 Q You're not qualified to perform any</p> <p>6 audits?</p> <p>7 A No.</p> <p>8 Q Any form of audit?</p> <p>9 A No.</p> <p>10 Q You had no involvements with the payroll</p> <p>11 for Avatar Technologies Philippines Inc.?</p> <p>12 A Payroll? No.</p> <p>13 Q Any billing for Avatar Technologies</p> <p>14 Philippines Inc?</p> <p>15 A No.</p> <p>16 Q Work with a couple of employees over</p> <p>17 there?</p> <p>18 A Worked. I was -- I think I was able to</p> <p>19 work in the Philippines, but I've never worked for a</p> <p>20 corporation in the Philippines.</p> <p>21 Q Did you provide services for one?</p> <p>22 A Provide services. Getting paid for</p> <p>23 services? Never.</p> <p>24 Q Do you know someone named Agrain [ph]?</p> <p>25 A Do I know that person?</p> | <p style="text-align: right;">Page 52</p> <p>1 A I don't know.</p> <p>2 Q Do you still have the email?</p> <p>3 A It should be in the records that I sent</p> <p>4 over, if I --</p> <p>5 Q I'll represent to you, I have seen no</p> <p>6 email that's from anyone over in the Philippines</p> <p>7 saying, David Stewart, here's a copy of the payroll</p> <p>8 summary for Avatar Technologies Philippines. Can I</p> <p>9 ask you what you mean by, why are these sent to me</p> <p>10 to post, question mark, oops, any way, there they</p> <p>11 are?</p> <p>12 MR. CHEN: I want to note that the</p> <p>13 Facebook post -- this is three, this is --</p> <p>14 MR. LURIE: Two.</p> <p>15 MR. CHEN: Two does not have a date on it,</p> <p>16 as far as I can tell. There's a time stamp,</p> <p>17 but there's not a date.</p> <p>18 MR. LURIE: Noted.</p> <p>19 Q Mr. Stewart, what did you mean by that?</p> <p>20 A Why are these sent to me -- post -- oops.</p> <p>21 Here they are any way -- I guess -- I guess they</p> <p>22 were -- I was assuming they were sent to me, or</p> <p>23 making up a story that they were sent to me. I</p> <p>24 don't even -- but what does this have to do with --</p> <p>25 Q Okay. Mr. Stewart --</p> |
| <p style="text-align: right;">Page 51</p> <p>1 Q Yes.</p> <p>2 A Yes.</p> <p>3 Q Who is Agrain?</p> <p>4 A An employee of sales technologies that</p> <p>5 sits in the Philippines.</p> <p>6 Q Okay. Do you know she is in the United</p> <p>7 States now, right?</p> <p>8 A Yes.</p> <p>9 Q You know her last name is now Tal,</p> <p>10 correct? Tal, T-A-L. Are you aware of that?</p> <p>11 A Yes. Well, not of the last name fully.</p> <p>12 But I know she's here.</p> <p>13 Q You're aware that she got married to a</p> <p>14 U.S. citizen, correct?</p> <p>15 A Okay.</p> <p>16 Q Yes?</p> <p>17 A Yes.</p> <p>18 Q Even if you were not an employee -- well,</p> <p>19 strike that. How would you get a copy of this</p> <p>20 payroll record, payroll summary, for Avatar</p> <p>21 Technologies Philippines Inc.?</p> <p>22 A Someone might have emailed it to me.</p> <p>23 Q Who?</p> <p>24 A Not sure.</p> <p>25 Q When?</p> | <p style="text-align: right;">Page 53</p> <p>1 A Avatar U.S. --</p> <p>2 MR. LURIE: Let's do this as four.</p> <p>3 (Stewart Four was marked for</p> <p>4 identification.)</p> <p>5 Q Mr. Stewart I placed before you what's</p> <p>6 been marked as Stewart Four for identification</p> <p>7 purposes. Do you recognize that?</p> <p>8 A Yes.</p> <p>9 Q Poster is Kal El again, correct?</p> <p>10 A Uh-huh.</p> <p>11 Q And that's you?</p> <p>12 A To the best of my knowledge, yes.</p> <p>13 Q Now, this is an attachment of some type of</p> <p>14 photo. Is that correct?</p> <p>15 A Yup.</p> <p>16 Q What is that photograph?</p> <p>17 A It's Philippines system report, priority</p> <p>18 report, I think. Priority system report.</p> <p>19 Q Shows some monthly earnings on it,</p> <p>20 correct?</p> <p>21 A 80,000 pesos.</p> <p>22 Q What is the position?</p> <p>23 A Director and VP of compliance.</p> <p>24 Q What's the date stamp on that?</p> <p>25 A June 10th. What year, I'm not sure.</p> |

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| <p style="text-align: right;">Page 54</p> <p>1 Q Well, let's take a look down at the 2 picture in the lower left-hand corner of that. 3 What's the date stamp that was received? 4 A May 2015. 5 Q May of 2015, you were not providing any 6 services for any of my clients, correct? 7 A Okay. 8 Q Is that correct? 9 A Yes. 10 Q Now, another claim here -- strike that. 11 You've read the complaint in this matter, correct? 12 A Yes. 13 Q You're familiar with the complaint in this 14 matter? 15 A Not to an extent. But you can refresh me. 16 Q And you have drafted a separate complaint 17 against my client for violations of labor laws, 18 correct? 19 A To the best -- 20 Q To the best what? 21 A Yes. 22 Q And is it fair to say that in both of 23 these complaints that it addresses Avatar 24 Technologies Philippines Inc. as at least having 25 some type of relationship with George Kaltner?</p> | <p style="text-align: right;">Page 56</p> <p>1 Q What do you mean by, I giveth and taketh 2 requests too? 3 A Giveth and taketh requests to? I'm not 4 sure. That would be an assumption. 5 Q Well, those are your words, correct? 6 A Yup. 7 Q You typed that? 8 A Yup. 9 Q No one else typed that for you, correct? 10 A Nope. 11 MR. LURIE: Stewart Five. 12 (Stewart Five was marked for 13 identification.) 14 THE WITNESS: Oh, I guess I was responding 15 to -- 16 MR. LURIE: No pending question, Mr. 17 Stewart. 18 MR. CHEN: He was answering your last 19 question. I think my client wants to 20 supplement his answer to your last question. 21 Q Are you guessing with this response, Mr. 22 Stewart? 23 A No. I just read the, PM me this person's 24 earning amount of dough, L-O-L. 25 So, he's making a joke, and I responded to</p> |
| <p style="text-align: right;">Page 55</p> <p>1 A I've seen that in there. 2 Q So a fair assessment to say that in your 3 complaint you said it was George Kaltner? 4 A Yes. 5 Q So, please tell me how you got a copy of 6 an internal report, whatever it is, from Avatar 7 Technologies Philippines Inc. on June 10th? 8 A I'm not sure. You would have to check in 9 my email to see where -- 10 Q Who's -- 11 A -- this came from. 12 Q Who's Marco Jabien [ph]? 13 A An employee -- he was -- I guess he was 14 employed by Avatar, I would assume. 15 Q Avatar what? 16 A Avatar Technologies Philippines. 17 Q Why is he your friend on Facebook? 18 A Why not? 19 Q How did you come to know him? 20 A Facebook friends. 21 Q How did you become Facebook friends? 22 A Maybe through another friend. 23 Q Who? 24 A I'm not sure. I have heard of the name. 25 Never met the guy.</p> | <p style="text-align: right;">Page 57</p> <p>1 him. I giveth and I taketh requests too. 2 Q Did you -- strike that. What does PM 3 stand for? 4 A That would be, call him or, you know, dial 5 him on the Facebook. 6 Q Do you have -- 7 A A personal message. 8 Q Personal message? 9 A Yeah. I guess that's what -- 10 Q Did you personal message him? 11 A I have talked to him before. It would be 12 on my Facebook feeds that you guys have. 13 Q So you've spoken to Marco Jabien, but he's 14 a Facebook friend. You don't know how you met him, 15 but you're having conversations with him? 16 A I met him on Facebook; and I knew that he 17 worked for Avatar Technologies Philippines, and I 18 remember his face, yes. I remember who this guy is 19 now. I do. 20 Q What did you discuss with Marco Jabien in 21 private messages? 22 A I'm not sure. That would be -- I gave the 23 guys all access to that. So you'll be able to read 24 it. 25 Q Is Kal El still an active Facebook</p> |

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| <p style="text-align: right;">Page 58</p> <p>1 profile?</p> <p>2 A Oh, no. I tried to --</p> <p>3 Q Please.</p> <p>4 A I was trying to retrieve it, but I</p> <p>5 couldn't prove my identity.</p> <p>6 Q Who is Tria Ducay?</p> <p>7 A I would assume a Filipino who worked for</p> <p>8 Avatar Technologies, Rainbow Slushy.</p> <p>9 Q Do you know that, or do you believe that?</p> <p>10 A Tria. Let's see. I know that.</p> <p>11 Q She worked for which business?</p> <p>12 A Both.</p> <p>13 Q And who is JM Ibara [ph]?</p> <p>14 A A person that might have worked for</p> <p>15 Rainbow Slushy, I think, only.</p> <p>16 Q Mr. Stewart, I present before you what's</p> <p>17 been marked as Stewart Five for identification</p> <p>18 purposes. Please take a look at this document and</p> <p>19 let me know when you've completed your review.</p> <p>20 A Yes. I know what this is.</p> <p>21 Q Do you recognize this document?</p> <p>22 A Of course.</p> <p>23 Q What do you mean -- strike that. What is</p> <p>24 this document?</p> <p>25 A This is a public information that I</p> | <p style="text-align: right;">Page 60</p> <p>1 Q Mr. Stewart, why are you posting any of</p> <p>2 this?</p> <p>3 A Oh, I remember now. Let's see. What's</p> <p>4 this? June -- I'm trying to think to see. Why did</p> <p>5 I post these? I need a date here. Can I get the</p> <p>6 date of this?</p> <p>7 Q It says June 9th.</p> <p>8 MR. CHEN: Which document are you</p> <p>9 referring to when you ask for the date?</p> <p>10 A The Kal post --</p> <p>11 Q Stewart Five is June 9th.</p> <p>12 A June 9th.</p> <p>13 Q Stewart Four is June 10th.</p> <p>14 A Oh, I was heading to the Philippines, I</p> <p>15 think. I had purchased tickets to the Philippines.</p> <p>16 Q So why are you posting the payroll records</p> <p>17 for a company which you claim you provided no</p> <p>18 services for?</p> <p>19 A I don't even know.</p> <p>20 Q You have no reason to do so?</p> <p>21 A I don't know what was going on at the time</p> <p>22 at Philippines, Avatar Philippines. But, it must</p> <p>23 have been something happening, either someone sent</p> <p>24 me this and said post it or --</p> <p>25 Q Who?</p> |
| <p style="text-align: right;">Page 59</p> <p>1 posted, yes.</p> <p>2 Q What do you mean by, you just got to know</p> <p>3 where to look?</p> <p>4 A Yes. You have to know where to look to</p> <p>5 find these public information.</p> <p>6 Q Why are you looking for this?</p> <p>7 A Avatar. Why? To know the standings of --</p> <p>8 what date was this? June 9th -- to know the</p> <p>9 standings of the company.</p> <p>10 Q Why did you want to know the standings of</p> <p>11 the company?</p> <p>12 A Just to know things.</p> <p>13 Q Why?</p> <p>14 A I worked for the company. I care for, you</p> <p>15 know, to know things. When are they -- reports they</p> <p>16 posted and stuff.</p> <p>17 Q Did they post this?</p> <p>18 A No. This is public information.</p> <p>19 Q Why did you post it?</p> <p>20 A Because it was public, and I like posting.</p> <p>21 I didn't have --</p> <p>22 Q Did you like posting the payroll records</p> <p>23 for Avatar Technologies Philippines?</p> <p>24 A That was -- that was -- why did I post</p> <p>25 this? Not sure why I posted that.</p> | <p style="text-align: right;">Page 61</p> <p>1 A I'm not even sure.</p> <p>2 Q Were you asking people for documents?</p> <p>3 A No.</p> <p>4 Q Do you know someone named Carmel Adolofo</p> <p>5 Lozada?</p> <p>6 A Employee of Avatar Philippines.</p> <p>7 Q Okay.</p> <p>8 MR. LURIE: Let's do this as Stewart Six.</p> <p>9 (Stewart Six was marked for</p> <p>10 identification.)</p> <p>11 Q Mr. Stewart, I placed before you what has</p> <p>12 been marked as Stewart Six for identification</p> <p>13 purposes. Do you recognize this document?</p> <p>14 A Yes.</p> <p>15 Q What is this document?</p> <p>16 A A Facebook message with an employee of</p> <p>17 Avatar Philippines.</p> <p>18 Q Do you recall having this conversation</p> <p>19 with Carmel Adolofo Lozada?</p> <p>20 A Yes, I do.</p> <p>21 Q What does -- what did you mean when you</p> <p>22 wrote to her and said, where can I get copies of</p> <p>23 those papers from?</p> <p>24 A The closure of Avatar Philippines.</p> <p>25 Q Which papers?</p> |

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| <p style="text-align: right;">Page 62</p> <p>1 A The documents that the company is closed.</p> <p>2 Q Why did you need those documents?</p> <p>3 A To know their status.</p> <p>4 Q Why did you need to know their status?</p> <p>5 A I think there was a dispute with Avatar</p> <p>6 Philippines and a friend of mine.</p> <p>7 Q Who?</p> <p>8 A Mia -- I forgot Mia's last name. It was</p> <p>9 Mia, Fritz, and Maria.</p> <p>10 Q What was the dispute?</p> <p>11 A They weren't -- I think they weren't</p> <p>12 getting paid something.</p> <p>13 Q What weren't they getting paid?</p> <p>14 A Their, like, final salary or something.</p> <p>15 Q Are you in an attorney in the Philippines?</p> <p>16 A No.</p> <p>17 Q Are you -- I believe you previously</p> <p>18 testified that said you weren't even permitted to</p> <p>19 provide work in the Philippines, correct?</p> <p>20 A I wasn't.</p> <p>21 Q So what were you going to do if you got</p> <p>22 copies of those papers?</p> <p>23 A I would send it back to them.</p> <p>24 Q Send it back to who?</p> <p>25 A Fritz, Maria, and Mia.</p> | <p style="text-align: right;">Page 64</p> <p>1 A I didn't know how to access that. I only</p> <p>2 know how to do it from the U.S. side.</p> <p>3 Q You previously testified that, shortly</p> <p>4 after you ceased providing services for my clients,</p> <p>5 you went to the Philippines, correct?</p> <p>6 A Yes, I did.</p> <p>7 Q When did you go to the Philippines?</p> <p>8 A About, July 15th.</p> <p>9 Q And how long were you there?</p> <p>10 A Two and half to three weeks.</p> <p>11 Q What was your purpose of going to the</p> <p>12 Philippines?</p> <p>13 A Vacation to see my friends.</p> <p>14 Q Lot of friends in the Philippines?</p> <p>15 A Yeah.</p> <p>16 Q How do you have all these friends in the</p> <p>17 Philippines?</p> <p>18 A I met them.</p> <p>19 Q When did you meet them?</p> <p>20 A Between June 3rd, 2014 to September 29th</p> <p>21 of 2000 something -- 2000 -- September 29, 2014.</p> <p>22 Q What were you doing in that time frame?</p> <p>23 A I was sent to the Philippines.</p> <p>24 Q What were you doing in the Philippines?</p> <p>25 A I was sent to -- I was sent to snoop on</p> |
| <p style="text-align: right;">Page 63</p> <p>1 Q You wouldn't post them online?</p> <p>2 A If they were public information.</p> <p>3 Q Are the payroll records public</p> <p>4 information?</p> <p>5 A No. But at the time, I was not -- I</p> <p>6 didn't work for them. So I didn't deal --</p> <p>7 Q Do you know if closing documentation for</p> <p>8 business in the Philippines is public information?</p> <p>9 A I don't know the rules of the Philippines.</p> <p>10 It's similar to this post here. You can go up and</p> <p>11 get public information. And I could have sent it</p> <p>12 out.</p> <p>13 Q What's your purpose for posting these</p> <p>14 documents related to a business that you claim you</p> <p>15 never provided service for on Facebook?</p> <p>16 A Someone was having an issue -- my friends</p> <p>17 were having an issue with -- based on the closure,</p> <p>18 why they're closing. And I wanted to -- you know, I</p> <p>19 requested for closing a document to a person that</p> <p>20 should not -- I think -- I don't have a date stamp</p> <p>21 here, but she was not an employee; and the same way</p> <p>22 I can get it here in America, I thought they could</p> <p>23 just go on their website and find out if the company</p> <p>24 closed.</p> <p>25 Q Why didn't you?</p> | <p style="text-align: right;">Page 65</p> <p>1 people stealing money.</p> <p>2 Q Who?</p> <p>3 A Or items. Anyone.</p> <p>4 Q What other reasons did you go to the</p> <p>5 Philippines for that long period of time?</p> <p>6 A That was it. That's what I was sent for.</p> <p>7 And then there was a, what do you call it, a trip in</p> <p>8 the middle; so I was -- after the trip -- yeah.</p> <p>9 That's when I returned.</p> <p>10 Q You mentioned a company previously called</p> <p>11 Rainbow Slushy?</p> <p>12 A Uh-huh.</p> <p>13 Q What is Rainbow Slushy?</p> <p>14 A One of George's entities in the</p> <p>15 Philippines.</p> <p>16 Q Do you have any involvement with Rainbow</p> <p>17 Slushy at all?</p> <p>18 A Yeah.</p> <p>19 Q What was your involvement with Rainbow</p> <p>20 Slushy?</p> <p>21 A To make sure they don't steal items.</p> <p>22 Q Who doesn't steal items?</p> <p>23 A Staff.</p> <p>24 Q Did you go to check to see if people were</p> <p>25 stealing items?</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 A Yes. I would walk around on my, you know, 2 when I finished with my Avatar Technologies U.S. 3 work. 4 Q What was your Avatar Technologies U.S. 5 work? 6 A Billing. 7 MR. CHEN: From what time period? 8 Q He just said his work. I just want to 9 know -- during that time -- let's say we're over 10 there, while you're over there in this period of 11 time from approximately, you said, June through 12 September of 2014? 13 A Mm-hmm. 14 Q What was your Avatar Technologies work 15 during that time? 16 A To make sure the billing was correct, and 17 to, you know, make sure the recurring profiles 18 generate, and make sure the money is collected. 19 Q Collected for who? 20 A Avatar Technologies U.S. 21 Q What was the business of Avatar 22 Technologies U.S.? 23 A It was a -- we did -- what do you call it. 24 It's like a phone company -- well, you should know. 25 Q No. I want to hear from you. What is</p> | <p style="text-align: right;">Page 68</p> <p>1 Q Anyone else? 2 A That was my link. 3 Q Did you go over there to help open this 4 business? 5 A Yes. 6 Q Were there any other people who were 7 involved in the opening of this business? 8 A As -- what do you mean, like, the funder? 9 Q Who is the funder? 10 A Jeff Torrez. 11 Q Who is Jeff Torrez? 12 A Jeff Torrez was a client of Avatar 13 Technologies U.S. -- I expressed this in the other 14 deposition too. 15 MR. CHEN: No. That's okay. 16 Q As I said, we may touch upon these things, 17 and your counsel will advise if this has been 18 thoroughly investigated. So Jeff Torrez was a 19 client of Avatar Technologies U.S.? 20 A Yes. 21 Q To the best of your knowledge, you had a 22 contract with Avatar Technologies U.S.? 23 A I'm not sure. 24 Q Going back, to touch upon this -- not 25 going down this too much. You said that you did</p> |
| <p style="text-align: right;">Page 67</p> <p>1 your understanding of what the work was that Avatar 2 Technologies United States did? 3 A They create -- what do you call it, 4 software, and enable people to make a ton load of 5 calls. And they bill these clients. 6 Q That's your understanding of what they did 7 for the business? 8 A Yeah. And they got into other projects, 9 but, you know. 10 Q So you traveled over to the Philippines 11 for about three weeks, you said, in July of 2015? 12 A Yes, I did. 13 Q Did you go to the Philippines again after 14 that point? 15 A Of course. 16 Q Why did you go -- strike that. When did 17 you go to the Philippines again after that? 18 A February of 2016. 19 Q What was the purpose of your trip to the 20 Philippines in February of 2016? 21 A I was going there to help someone start a 22 call center. 23 Q Who? 24 A Ted Nehls. N-E-H-L-S. 25 MR. LURIE: Correct. N-E-H-L-S.</p> | <p style="text-align: right;">Page 69</p> <p>1 billing for Avatar Technologies Inc. in the U.S.? 2 A Yes. 3 Q You sent out the bills? 4 A Yes. 5 Q You're familiar with the bills? 6 A Yes. 7 Q You're familiar with all the language 8 contained within the bills? 9 A No. 10 Q To the best of your recollection, can you 11 tell me without looking at one of these documents -- 12 I presume that you sent out hundreds of thousands of 13 these bills? 14 A Mm-hmm. 15 Q Describe what the bill would look like? 16 A An invoice from Fresh Books. 17 Q How many pages would such a document be? 18 A I don't know. The one. 19 Q It's a single-page document? 20 A Yeah. The Fresh Books invoice. Oh. No, 21 no, no, no. If it's the profile, the profile should 22 have, like, pages on it. It depends on how much 23 language is on it. As a matter of fact, we sent 24 that to you to check it out, I think. I'm not -- 25 yeah.</p> |

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| <p style="text-align: right;">Page 70</p> <p>1 Q So you're generally familiar with the</p> <p>2 terms and conditions for the retention of Avatar?</p> <p>3 A Well, never read it; but, because I wasn't</p> <p>4 a client, so, I'm just --</p> <p>5 Q You were sending this out to all of the</p> <p>6 clients of Avatar Technologies, correct?</p> <p>7 A Yeah.</p> <p>8 Q If anyone ever had a question about it,</p> <p>9 would they call you? Who would they call?</p> <p>10 A If they had a question --</p> <p>11 Q If they had a question about the terms and</p> <p>12 conditions on the invoice, who would they call?</p> <p>13 A George, I would assume.</p> <p>14 Q Where was this call center that you were</p> <p>15 opening with Ted Nehls in the Philippines?</p> <p>16 A Baguio, Philippines. B-A-G-A -- I'm sorry.</p> <p>17 I'm not sure how to spell it again.</p> <p>18 MR. LURIE: Do it phonetically for the</p> <p>19 time being.</p> <p>20 THE WITNESS: Yeah.</p> <p>21 Q When approximately did you start doing</p> <p>22 that business?</p> <p>23 A What was that?</p> <p>24 Q Approximately when did you start to open</p> <p>25 that business?</p> | <p style="text-align: right;">Page 72</p> <p>1 A Yes.</p> <p>2 Q What's your telephone number associated</p> <p>3 with Viber?</p> <p>4 A XXX-XXX-XXXX.</p> <p>5 Q Is that the same number as your cell</p> <p>6 phone?</p> <p>7 A Yes.</p> <p>8 MR. LURIE: I will put a notation on the</p> <p>9 record that that should be redacted out in case</p> <p>10 we ever have to go and utilize this.</p> <p>11 MR. CHEN: Sure. Thank you.</p> <p>12 Q Are you familiar with a Viber telephone</p> <p>13 number of 639-159-308-942?</p> <p>14 A No. I don't recall the numbers. It could</p> <p>15 live -- I don't recall the number. Sorry.</p> <p>16 Q Do you still have the Viber app on your</p> <p>17 telephone?</p> <p>18 A Yes.</p> <p>19 Q Do you keep track of your conversations on</p> <p>20 the Viber app on your telephone?</p> <p>21 A No.</p> <p>22 Q You delete them?</p> <p>23 A Of course.</p> <p>24 Q Do you have a separate, for no better</p> <p>25 term, to utilize for this, contact list on Viber</p> |
| <p style="text-align: right;">Page 71</p> <p>1 A Oh. Well, I didn't start. I went over</p> <p>2 there in February 15th of February 16 -- I mean</p> <p>3 February 2016, and I guess I would start.</p> <p>4 Q Was the business already operational at</p> <p>5 that time?</p> <p>6 A No.</p> <p>7 Q So you were over there to help set this</p> <p>8 new business up?</p> <p>9 A Yes.</p> <p>10 Q Did you hire anyone for the business?</p> <p>11 A No.</p> <p>12 Q Were you trying to hire anyone for the</p> <p>13 business?</p> <p>14 A No.</p> <p>15 Q Mr. Stewart, do you utilize a piece of</p> <p>16 software called Viber? V-I-B-E-R.</p> <p>17 A Yes.</p> <p>18 Q Yes?</p> <p>19 A Yes.</p> <p>20 Q Whats Viber?</p> <p>21 A Just an app to -- communication app.</p> <p>22 Q Do you utilize that regularly?</p> <p>23 A I would say so.</p> <p>24 Q Do you have a telephone number associated</p> <p>25 with Viber?</p> | <p style="text-align: right;">Page 73</p> <p>1 that is separate from the contact list on your cell</p> <p>2 phone?</p> <p>3 A No.</p> <p>4 Q So if you were going to call someone on</p> <p>5 Viber, how would you do so?</p> <p>6 A It would be directly through the app.</p> <p>7 Q How would you find the person that you</p> <p>8 wanted to speak to?</p> <p>9 A How would I find the person? I would have</p> <p>10 to have their number or -- yeah. I would have to</p> <p>11 have their phone number in my phone, or if someone</p> <p>12 else changes the number, then I'll have some random</p> <p>13 person.</p> <p>14 Q Do you have -- strike that. Do you have</p> <p>15 in your cell phone contact lists? Do you have</p> <p>16 contacts in the Philippines as well?</p> <p>17 A Yeah.</p> <p>18 Q So if we were to ask to you take a look at</p> <p>19 your contact list right now on your cell phone, you</p> <p>20 might be able to look up certain telephone numbers?</p> <p>21 A No.</p> <p>22 Q Why not?</p> <p>23 A Because I don't have my phone with me.</p> <p>24 Q Did you bring your phone with you to this</p> <p>25 deposition today?</p> |

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| <p style="text-align: right;">Page 74</p> <p>1 A Yes.</p> <p>2 Q Where is your cell phone now?</p> <p>3 A I left it outside.</p> <p>4 Q It's in your attorney's office?</p> <p>5 A Yeah, I guess, yeah to take care of that.</p> <p>6 Q Viber also have picture images for the</p> <p>7 contacts?</p> <p>8 A Of -- yeah. Viber, What's App. They all</p> <p>9 do.</p> <p>10 Q Let's do this as Stewart Seven.</p> <p>11 (Stewart Seven was marked for</p> <p>12 identification.)</p> <p>13 Q Mr. Stewart, now placed before you has</p> <p>14 been marked as Stewart Seven for identification</p> <p>15 purposes. Please take a moment to look at this</p> <p>16 document.</p> <p>17 A I know this document very well.</p> <p>18 Q What is this document?</p> <p>19 A A message between me and Marby Cordera</p> <p>20 [ph] of the Philippines.</p> <p>21 Q This is a discussion that you had,</p> <p>22 correct?</p> <p>23 A Yes. It doesn't show where I started the</p> <p>24 discussion, but this is an excerpt from a large</p> <p>25 file.</p> | <p style="text-align: right;">Page 76</p> <p>1 A Oh, yeah.</p> <p>2 Q Scroll down a little bit in this.</p> <p>3 A Mm-hmm.</p> <p>4 Q It says, send me your resume.</p> <p>5 DavidS@AvatarDialler -- with two L's -- .com.</p> <p>6 A Uh-huh.</p> <p>7 Q What's Avatardialler.com?</p> <p>8 A As I stated before, I copied that from the</p> <p>9 web and added it to my name, David S.</p> <p>10 Q Where did you find it on the web?</p> <p>11 A Just Google, avatar, and it gives you a</p> <p>12 bunch of companies. And Avatar Dialler would be so</p> <p>13 easy for her to be gullible and seek more</p> <p>14 information.</p> <p>15 Q Okay. You claim you had no involvement</p> <p>16 with this business, correct?</p> <p>17 A Zero. You guys have all my records, and</p> <p>18 not an ounce.</p> <p>19 Q Mr. Stewart, once again, please just</p> <p>20 answer the question. Your position is you had no</p> <p>21 involvement with the business called</p> <p>22 Avatardialler.com? Correct?</p> <p>23 A Yes.</p> <p>24 Q If you had no involvement, why are you</p> <p>25 telling people that you're part of that company?</p> |
| <p style="text-align: right;">Page 75</p> <p>1 Q It says in here, question to her about, do</p> <p>2 you want to work in Manila. Is that correct?</p> <p>3 A Yes.</p> <p>4 Q Were you seeking employees to work at a</p> <p>5 company in Manila?</p> <p>6 A Nope.</p> <p>7 Q Why were you asking her if she wants to go</p> <p>8 work in Manila.</p> <p>9 A Because I know who Marby Cordera is.</p> <p>10 Q Who is Marby Cordera?</p> <p>11 A It's just a girl that worked for Avatar</p> <p>12 known as Avatar's spy, so when she contact me, I</p> <p>13 know what to expect.</p> <p>14 Q So let me ask you this once again.</p> <p>15 A Mm-hmm.</p> <p>16 Q So why would you ask her if she wanted a</p> <p>17 job in Manila?</p> <p>18 A I don't know where the conversation</p> <p>19 started, but that would be a question I would pose</p> <p>20 to someone that's looking to gain information from</p> <p>21 me.</p> <p>22 Q So you would pass off that you were</p> <p>23 looking to hire people for a job?</p> <p>24 A I would throw almost anything to Marby.</p> <p>25 Q You would lie to her?</p> | <p style="text-align: right;">Page 77</p> <p>1 A As I told you, I know exactly who I'm</p> <p>2 speaking to. I could list all the guys that look to</p> <p>3 seek information for, that works in Avatar</p> <p>4 Philippines to give to their CEO to give to Avatar</p> <p>5 U.S. CEO.</p> <p>6 Q Why would there be spies trying to contact</p> <p>7 you?</p> <p>8 A I worked there. This is what they do.</p> <p>9 Q Oh, you worked for Avatar Philippines?</p> <p>10 A No. I worked for Avatar U.S. in the</p> <p>11 Philippines.</p> <p>12 Q You just said that she's an employee in</p> <p>13 the Philippines?</p> <p>14 A Yeah. I met her in the Philippines. She</p> <p>15 came to my hotel.</p> <p>16 Q And she was an employee of Avatar</p> <p>17 Philippines?</p> <p>18 A Avatar Philippines via -- I think she</p> <p>19 worked for Avatar, in Avatar Philippines for Avatar</p> <p>20 U.S. I would assume.</p> <p>21 Q You don't know?</p> <p>22 A To the best of my knowledge, she worked</p> <p>23 mostly with George.</p> <p>24 Q So, then your purpose was to just pass</p> <p>25 yourself off as this business Avatar Dialler to her?</p> |

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| <p style="text-align: right;">Page 78</p> <p>1 A With her, anything she wants to know, I 2 would, you know, give her a goose chase. 3 Q So you wanted her to think you were a 4 business called Avatardialler.com, correct? 5 A Based on -- from this limited scope here, 6 I'm not sure what started the conversation to make 7 me go that far and give her bogus. I believe I was 8 in the U.S. at the time this was done. 9 Q So you're reaching out internationally to 10 contact people to say that you're a business? 11 MR. CHEN: Objection. 12 A I believe she contacted me, asking me for 13 work, like other Avatar guys. 14 MR. CHEN: Let's take a break. There's no 15 pending question. And I need to use the 16 restroom. And you look like you're leafing 17 through some documents. 18 MR. LURIE: Yeah. I'm breaking up the 19 exhibits. 20 THE VIDEOGRAPHER: We are now off the 21 record. The time on the video monitor is 1:02 22 P.M. 23 24 THE VIDEOGRAPHER: We are now on the 25 record. The time on the video monitor is 1:46</p> | <p style="text-align: right;">Page 80</p> <p>1 Q Did she provide you with any documents? 2 A I think she shared a video or two with me. 3 Q Did you produce those? 4 A If I got them, most likely I would send 5 them to my lawyer. 6 Q Did you review the documents before they 7 were produced in this case? 8 A Review the documents of? 9 Q Any time -- you got a document request in 10 this case, correct? 11 A Uh-huh. 12 Q Yes? 13 A Yes. 14 Q Did you review that request? 15 A To the best of my knowledge. 16 Q And any documents that were requested from 17 you, you produced? 18 A Yes, I would give consent to produce. 19 Q Well, that wasn't my question. Not that 20 you consented to produce. Did you produce? 21 A Well, there was discovery. And I gave up 22 everything that I had. 23 Q Did you produce any videos in this matter? 24 A It's a part of the laptop that you guys -- 25 it should be there.</p> |
| <p style="text-align: right;">Page 79</p> <p>1 P.M. 2 Q Mr. Stewart, we're back from a sort of 3 sudden lunch break, which we decided to take at the 4 last minute. I'm going to step back a little bit 5 from where we were, before we took this little bit 6 of a break. While we were discussing a conversation 7 with an individual on Viber, we'll get back to that 8 a little bit later on. Can I ask you who Breeya 9 Christian is? 10 A An employee of Avatar Technologies, Inc. 11 Sales Technologies and a fitness company. I forgot 12 the name. And Comic Salt [ph]. 13 Q Are you still in contact with her? 14 A I've seen her once or twice after I left 15 the company. 16 Q Did you talk to her on the phone? 17 A Pretty sure, yes. 18 Q Text message? 19 A Yeah. 20 Q Did you discuss any aspects of this case 21 with her? 22 A Not sure. 23 Q Did you ask her to provide you with any 24 documents? 25 A Not sure.</p> | <p style="text-align: right;">Page 81</p> <p>1 Q Pursuant to the discovery request in this 2 case, did you produce any videos that were 3 requested? 4 A Not sure. 5 Q Who is Rauti Ulloa? U-L-L-O-A? 6 A Rauti Ulloa? Rauti is a friend of mine 7 that I invited to an interview with Avatar Sales 8 Technologies she got the job. And then he also of 9 course, since worked with both Avatar and Sales 10 Technologies. 11 Q Did you discuss any aspects of this case 12 with him? 13 A No. Not to my knowledge. 14 Q Text message him, anything having to do 15 with this matter? 16 A Other than borrowing some money from him. 17 Q Let's talk about that a little bit later, 18 as well. Who is Jason Gentry? G-E-N-T-R-Y. 19 A Jason Gentry is an employee of Avatar 20 Technologies, Inc., that worked in the Philippines. 21 Q Did you discuss any aspects of this case 22 with him? 23 A Aspects as to, I'm getting sued by George 24 Kaltner? Yes. 25 Q Did you discuss what the case was about?</p> |

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| <p style="text-align: right;">Page 82</p> <p>1 A Yeah. I told him.</p> <p>2 Q What did you tell him?</p> <p>3 A I got a frivolous lawsuit from George</p> <p>4 about copyright infringement, and we laughed.</p> <p>5 Q Talk with him on the telephone?</p> <p>6 A Yeah.</p> <p>7 Q Text message?</p> <p>8 A Yeah.</p> <p>9 Q Email?</p> <p>10 A Yeah. I would say so.</p> <p>11 Q Did he provide you with any documents?</p> <p>12 A Relating to himself, yeah.</p> <p>13 Q What did he produce, what --</p> <p>14 A I'm not sure what. But I know he sent me</p> <p>15 some stuff of --</p> <p>16 Q What did he provide you?</p> <p>17 A Documents that was in my email.</p> <p>18 Q What documents?</p> <p>19 A I'm not sure exactly what documents, but</p> <p>20 in my email.</p> <p>21 Q Mr. Stewart, did you search your emails in</p> <p>22 order to produce documents for this case?</p> <p>23 A Yes.</p> <p>24 Q And if there were documents in this case,</p> <p>25 did you print them?</p> | <p style="text-align: right;">Page 84</p> <p>1 Q Who is Stephanie Valdez?</p> <p>2 A A fictitious name Avatar Technologies,</p> <p>3 Inc. used for Edevict Vaneeszula. E-D-E-V-I-C-T.</p> <p>4 Vaneeszula, V-A-N-E-E-S-Z-U-L-A, closest of my</p> <p>5 knowledge to her name.</p> <p>6 Q Do you know for a fact that that's a</p> <p>7 fictitious name?</p> <p>8 A Oh, yeah.</p> <p>9 Q How do you know that?</p> <p>10 A Because her last name was very difficult</p> <p>11 to pronounce, so.</p> <p>12 Q Is her name Edevict Stephanie Vaneeszula?</p> <p>13 A Yeah.</p> <p>14 Q Did you discuss any aspects of this case</p> <p>15 with her?</p> <p>16 A I'm pretty sure I told her I was getting</p> <p>17 sued. And I referred her to my attorney.</p> <p>18 Q Why did you refer her to your attorney?</p> <p>19 A Because she was a witness to my</p> <p>20 employment.</p> <p>21 Q She was a witness. When did you refer</p> <p>22 her?</p> <p>23 A I'm not sure.</p> <p>24 Q When was the last time you spoke with her?</p> <p>25 A I would say after she received a letter</p> |
| <p style="text-align: right;">Page 83</p> <p>1 A If there was document that I --</p> <p>2 Q If there was a document that was relevant</p> <p>3 to this case, did you print them?</p> <p>4 A I would forward them via email to Jacob.</p> <p>5 Q And Jacob being your attorney?</p> <p>6 A My attorney.</p> <p>7 Q So any document that you received from a</p> <p>8 Jason Gentry, you would have provided to your</p> <p>9 attorney and said, here is this produced?</p> <p>10 A Yeah. I would say so.</p> <p>11 MR. CHEN: Again, I want to note for the</p> <p>12 record, he turned over all his emails, gave you</p> <p>13 -- gave, you know, counsel for the plaintiffs</p> <p>14 in this case access to all of his emails to</p> <p>15 give them the liberty to conduct any search,</p> <p>16 which they so desire.</p> <p>17 Q Thank you, Mr. Chen. But as I'm sure you</p> <p>18 know, that does not remove the obligation to comply</p> <p>19 with rule 34. So, did Mr. Gentry provide you with</p> <p>20 any photographs or pictures?</p> <p>21 A I'm not sure. You would have to refresh</p> <p>22 me of that photo. And pictures of what, exactly?</p> <p>23 Q Did Mr. Gentry provide you with any videos</p> <p>24 relevant to this case?</p> <p>25 A Relevant to this case? I don't know.</p> | <p style="text-align: right;">Page 85</p> <p>1 from you.</p> <p>2 Q You communicated with her after that</p> <p>3 period of time?</p> <p>4 A She called me and, like, what the hell is</p> <p>5 this?</p> <p>6 Q What did you tell her?</p> <p>7 A To speak to Jacob.</p> <p>8 Q Did you have any other discussions with</p> <p>9 her?</p> <p>10 A No. Not that I know of.</p> <p>11 Q So all you did was say, I'm not going to</p> <p>12 talk to you, talk to my attorney?</p> <p>13 A Basically. I don't recall exactly if I</p> <p>14 texted her or, you know. I most likely reached out</p> <p>15 to her via text, and I don't have anything in there.</p> <p>16 So you guys --</p> <p>17 Q When did you reach out to her via text</p> <p>18 message?</p> <p>19 A I don't recall. I've had a relationship</p> <p>20 with her, like, I would text her, like, hey, let's</p> <p>21 have lunch. We had lunch a few times when I was in</p> <p>22 New Jersey. So, yeah, you know.</p> <p>23 Q Have you had any text messages with her</p> <p>24 since January 3rd of 2018?</p> <p>25 A January 3rd, 2018? I would assume -- I</p> |

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| <p style="text-align: right;">Page 86</p> <p>1 could produce it if I do.</p> <p>2 Q Have you not produced those documents?</p> <p>3 A I don't how to answer that.</p> <p>4 Q Have you produced any -- strike that. Who</p> <p>5 is Daniella Daniel?</p> <p>6 A A friend of mine.</p> <p>7 Q I want to discuss your background a little</p> <p>8 bit. This is not -- this is going to come off a</p> <p>9 little weird. It's not when you think, initially.</p> <p>10 You weren't born in the United States, correct?</p> <p>11 A No.</p> <p>12 Q When did you come to the United States?</p> <p>13 A About 1983.</p> <p>14 Q Are you a citizen?</p> <p>15 A Yes.</p> <p>16 Q It's not what you think with that. I'm</p> <p>17 just getting your back ground for the terms of</p> <p>18 educational aspect. Where did you go to high</p> <p>19 school?</p> <p>20 A Park West High School.</p> <p>21 Q Where is that?</p> <p>22 A 50th Street and 10th Avenue.</p> <p>23 Q Manhattan?</p> <p>24 A Yeah.</p> <p>25 Q Did you go to college?</p> | <p style="text-align: right;">Page 88</p> <p>1 Q Between then, you also mentioned Monroe</p> <p>2 College?</p> <p>3 A Uh-huh.</p> <p>4 Q Yes?</p> <p>5 A Yes.</p> <p>6 Q When did you attend Monroe College?</p> <p>7 A 2008. Around 2008.</p> <p>8 Q Did you graduate from TCI?</p> <p>9 A Yes.</p> <p>10 Q What year did you graduate?</p> <p>11 A Two years from -- so I guess, 2005.</p> <p>12 Q And did you receive a degree or a</p> <p>13 certificate?</p> <p>14 A Yes.</p> <p>15 Q What did you receive as a graduate from --</p> <p>16 A Computer information technology.</p> <p>17 Q That was a certificate or a degree?</p> <p>18 A Degree. Associates.</p> <p>19 Q And then Monroe College, you said you went</p> <p>20 to business school?</p> <p>21 A Yes.</p> <p>22 Q And you began in, you believe 2008?</p> <p>23 A Yeah.</p> <p>24 Q Did you graduate from Monroe College?</p> <p>25 A Yes.</p> |
| <p style="text-align: right;">Page 87</p> <p>1 A Yes.</p> <p>2 Q Where did you go to college?</p> <p>3 A Queens Borough Community, TCI Technical</p> <p>4 School, and Monroe College Business College.</p> <p>5 Q Let's go through each one of those</p> <p>6 separately. So the first one you said you went to</p> <p>7 Queens Borough?</p> <p>8 A Community college.</p> <p>9 Q Community. Did you graduate?</p> <p>10 A No.</p> <p>11 Q How many credits approximately, do you</p> <p>12 recall having?</p> <p>13 A Thirty to forty.</p> <p>14 Q When did you attend Queens Borough</p> <p>15 community college?</p> <p>16 A '92 to '94. 1992 to 1994.</p> <p>17 Q You did not graduate?</p> <p>18 A No.</p> <p>19 Q And then it was after that that you</p> <p>20 attended -- I'm sorry it was TDI?</p> <p>21 A TCI.</p> <p>22 Q TCI?</p> <p>23 A Technical Career Institute.</p> <p>24 Q What year did you begin attending TCI?</p> <p>25 A I think, like, 2003.</p> | <p style="text-align: right;">Page 89</p> <p>1 Q What year did you graduate?</p> <p>2 A 2009.</p> <p>3 Q What degree did you receive, if any?</p> <p>4 A Information technology. Bachelor's.</p> <p>5 Q Between 1994 and 2003, were you employed?</p> <p>6 A Yes, different times.</p> <p>7 Q Were you attending any other education,</p> <p>8 obtaining any other education between 1994 and 2003?</p> <p>9 A No. Not that I recall.</p> <p>10 Q Let's step back to '94. Did you -- were</p> <p>11 you working in 1994?</p> <p>12 A I don't believe so. Not sure.</p> <p>13 Q What's the first job that you remember</p> <p>14 having?</p> <p>15 A First or after 1994?</p> <p>16 Q After Queens Borough Community College.</p> <p>17 A Okay. I worked at Jamaica Hospital.</p> <p>18 Q When did you begin working at Jamaica</p> <p>19 Hospital?</p> <p>20 A 1995.</p> <p>21 Q What was your job at Jamaica hospital?</p> <p>22 A Customer information rep, or patient</p> <p>23 information rep. Patient information rep, I think.</p> <p>24 Q How long were you working for Jamaica</p> <p>25 hospital?</p> |

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| <p style="text-align: right;">Page 90</p> <p>1 A I think I left in 2002.</p> <p>2 Q Did you have any other positions at</p> <p>3 Jamaica Hospital besides being a patient information</p> <p>4 rep?</p> <p>5 A No.</p> <p>6 Q After -- why did you leave from working at</p> <p>7 Jamaica Hospital?</p> <p>8 A I left to go back to school.</p> <p>9 Q That was to TCI?</p> <p>10 A Yes.</p> <p>11 Q Was TCI a full-time or part-time?</p> <p>12 A Full time.</p> <p>13 Q Did you have any employment between 2003</p> <p>14 and 2005, other than going to TCI?</p> <p>15 A Yes. Only in the college, college work</p> <p>16 study.</p> <p>17 Q After you graduated from TCI, did you get</p> <p>18 a job?</p> <p>19 A Yes.</p> <p>20 Q Where was your first job after graduating</p> <p>21 from TCI?</p> <p>22 A Managed Systems Inc.</p> <p>23 Q When were you hired by managed systems?</p> <p>24 A I think, it was close to my birthday, so I</p> <p>25 think August, 2005, I think. Yeah. I believe.</p> | <p style="text-align: right;">Page 92</p> <p>1 where they took my laptops.</p> <p>2 Q Okay. What year was that?</p> <p>3 A After two years. About -- after 2008.</p> <p>4 After my release from.</p> <p>5 Q Managed systems?</p> <p>6 A Yeah, no. From Managed Systems.</p> <p>7 Q So approximately 2009?</p> <p>8 A Yeah. It was, like, a month. So, I don't</p> <p>9 remember.</p> <p>10 Q Okay. What happened after that?</p> <p>11 A Um --</p> <p>12 Q Let me correct myself. I'm going to</p> <p>13 strike my statement because I'm getting a little bit</p> <p>14 too -- not being direct enough. What was your next</p> <p>15 job after providing services for Star National Bank?</p> <p>16 A Yeah. I'm not sure even if -- I worked</p> <p>17 with George in his home at Sales Dialer Pro. I'm</p> <p>18 sorry.</p> <p>19 Q When did you provide services for Sales</p> <p>20 Dialer Pro?</p> <p>21 A Sometime in 2009. It was only for, like,</p> <p>22 a few months when he was in Bement Avenue of Staten</p> <p>23 Island.</p> <p>24 Q Where was the next place where you worked?</p> <p>25 A I believe that was -- wow -- oh, I was</p> |
| <p style="text-align: right;">Page 91</p> <p>1 Q What was your position at Managed Systems?</p> <p>2 A It varies. I started as an office</p> <p>3 manager; and I ended as, I assume -- I think the</p> <p>4 title -- I'm not sure if this was my official title.</p> <p>5 But it was logistic manager, was what I believed it</p> <p>6 was.</p> <p>7 Q When did you leave managed systems?</p> <p>8 A 2008, I believe. Close to my birthday,</p> <p>9 so.</p> <p>10 Q Where did you work after managed systems?</p> <p>11 A Is this officially or unofficially?</p> <p>12 Q Either way.</p> <p>13 A I worked on a project with George and</p> <p>14 Oscar.</p> <p>15 Q What was the project with George and</p> <p>16 Oscar?</p> <p>17 A They were doing something called Star</p> <p>18 National Bank or -- yeah. Star National Bank or</p> <p>19 something like that.</p> <p>20 Q And what were you doing with this starting</p> <p>21 up of something called Star National Bank?</p> <p>22 A I was there dealing with -- I'm not sure.</p> <p>23 I used to sit there, and I had to, like, sort</p> <p>24 through, like, leads or something. I'm not sure.</p> <p>25 It was a brief moment because that was the incident</p> | <p style="text-align: right;">Page 93</p> <p>1 assigned -- George introduced me to a guy named Eric</p> <p>2 Kuvicin of All State merchants processing at 40</p> <p>3 Rector Street.</p> <p>4 Q What was your job for All State Merchants?</p> <p>5 A I had to deploy an application to manage</p> <p>6 how the offices interact and transfer documents.</p> <p>7 Q When was this, approximately?</p> <p>8 A Sometime in 2009, 2010.</p> <p>9 Q But no initial title with All State</p> <p>10 Merchants?</p> <p>11 A No.</p> <p>12 Q How long were you there for?</p> <p>13 A Maybe six to eight months.</p> <p>14 Q When was the next job that you had?</p> <p>15 A I had a friend working with Eastern</p> <p>16 Security, and I don't remember dates because it was</p> <p>17 more like helping him out. So, I would -- I worked</p> <p>18 for Eastern Security for about six to eight months.</p> <p>19 Q What is Eastern Security?</p> <p>20 A It's a security company.</p> <p>21 Q What type of security company?</p> <p>22 A Just security for, like, the Gucci or</p> <p>23 whatever vender that hires them.</p> <p>24 Q So, like, a security guard?</p> <p>25 A Yeah.</p> |

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| <p style="text-align: right;">Page 94</p> <p>1 Q What was your position there?</p> <p>2 A Security guard.</p> <p>3 Q Where was the next place you worked?</p> <p>4 A Sales Technologies.</p> <p>5 Q So we're up to, as the parties in this</p> <p>6 matter?</p> <p>7 A Yes.</p> <p>8 Q And now, looking at this, we have</p> <p>9 approximately six employers from the time that you</p> <p>10 received your bachelor's, before providing services</p> <p>11 for my clients?</p> <p>12 A Uh-huh.</p> <p>13 Q In any of those jobs or contracts or</p> <p>14 whatever it maybe that you were providing services</p> <p>15 for any entity, were you doing any financial work?</p> <p>16 A No.</p> <p>17 Q Were you doing any billing work?</p> <p>18 A No.</p> <p>19 Q Were you doing any accounting work?</p> <p>20 A No.</p> <p>21 Q Do you have any education with respect to</p> <p>22 accounting?</p> <p>23 A I took two years of accounting in college.</p> <p>24 They required two years. That's about it.</p> <p>25 Q Do you have -- strike that. You don't</p> | <p style="text-align: right;">Page 96</p> <p>1 entities?</p> <p>2 MR. CHEN: Quick note. So, I assume at</p> <p>3 some point you want to know where he works now?</p> <p>4 Q I'm getting to that, yeah. I'm just going</p> <p>5 through this whole --</p> <p>6 MR. CHEN: I suspect my client is</p> <p>7 uncomfortable where he works now because he's</p> <p>8 afraid your client might harass him or at his</p> <p>9 workplace or take some measures. I understand</p> <p>10 it's customary background questions for that</p> <p>11 information to come up. But it also doesn't</p> <p>12 seem where he's working right now after the</p> <p>13 case is commenced is relevant to the action.</p> <p>14 MR. LURIE: Your objection is noted.</p> <p>15 MR. CHEN: So -- so in so far as the</p> <p>16 question of where he is working right now, if</p> <p>17 it's after the commencement of this action, I</p> <p>18 would direct him not to answer unless there is</p> <p>19 some sort of protection, which -- some</p> <p>20 confidentiality agreement where your client</p> <p>21 would not know who he's working for now.</p> <p>22 MR. LURIE: Mr. Chen, while I appreciate</p> <p>23 that statement, that's not an appropriate</p> <p>24 objection under the federal rules. You have</p> <p>25 every right subsequent to this deposition to</p> |
| <p style="text-align: right;">Page 95</p> <p>1 have a degree in accounting, correct?</p> <p>2 A No.</p> <p>3 Q You do not have a degree in finance and no</p> <p>4 experience doing any real major accounting work,</p> <p>5 correct?</p> <p>6 A No.</p> <p>7 Q Subsequent to providing services for my</p> <p>8 clients, approximately April of 2015, have you been</p> <p>9 employed?</p> <p>10 MR. CHEN: Could you repeat that?</p> <p>11 THE WITNESS: Yeah.</p> <p>12 Q Have you been employed?</p> <p>13 A After 2015?</p> <p>14 Q After approximately April of 2015?</p> <p>15 A Have I been employed? Yes.</p> <p>16 Q By whom?</p> <p>17 A Uber Technologies and Lyft Technologies, I</p> <p>18 guess.</p> <p>19 Q And that's Lyft, with a Y?</p> <p>20 A Yes.</p> <p>21 Q What is Hoover Technologies?</p> <p>22 MR. CHEN: Uber.</p> <p>23 MR. LURIE: Oh, Uber. U-B-E-R?</p> <p>24 A Uh-huh.</p> <p>25 Q Have you provided services for any other</p> | <p style="text-align: right;">Page 97</p> <p>1 make an application to the court pursuant to</p> <p>2 federal rule 26F, for a protective order with</p> <p>3 respect to that information. At this point in</p> <p>4 my deposition, I do have the right to ask about</p> <p>5 his employment.</p> <p>6 MR. CHEN: I will ask -- I will direct my</p> <p>7 client not to answer. You can leave a blank in</p> <p>8 the transcript. I will raise my objection to</p> <p>9 the court. If the court directs him to answer,</p> <p>10 he'll fill in the blank with his current</p> <p>11 employer.</p> <p>12 MR. LURIE: Let's get the court on the</p> <p>13 phone now preemptively, since you're directing</p> <p>14 that he won't provide his full information in</p> <p>15 violation of federal rule 26 --</p> <p>16 MR. CHEN: I do want to point out that the</p> <p>17 magistrate judge in your previous issue raised,</p> <p>18 she believes that, you know, if we can address</p> <p>19 it or resolve it after the deposition, she will</p> <p>20 rather us do that so instead of waisting time</p> <p>21 at the deposition. If there's a blank, he can</p> <p>22 put in the name of his current employer when I</p> <p>23 raise it to the magistrate judge. If she</p> <p>24 directs him to do so, he can just fill in the</p> <p>25 blank with the name of the employer.</p> |

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| <p style="text-align: right;">Page 98</p> <p>1 MR. LURIE: Mr. Chen, with all due 2 respect, that's not how this works. 3 MR. CHEN: I understand. 4 MR. LURIE: Your client will respond to a 5 question in the deposition. If you have an 6 issue with it, and it can be during the 7 deposition, you can call the judge. Pursuant 8 -- 9 MR. CHEN: I understand. 10 MR. LURIE: -- rule 26F, and ask for a 11 protective order. 12 MR. CHEN: I was proposing a compromise, 13 which, to see if that will work with you. But 14 since it doesn't work with you, I'm happy to 15 jump on a call with the judge to address the 16 question of whether or not Mr. Stewart needs to 17 answer where he is currently employed. 18 MR. LURIE: Okay. Let's do it now. Let's 19 stay on the record. You can call because this 20 is your issue. I have her number ready. 21 (914)390-4130. 22 THE CLERK: Judge Smith's chambers. 23 MR. CHEN: Hi. Good afternoon. We have 24 the parties on line in the case of Kaltner 25 versus Stewart; and we're currently in the</p> | <p style="text-align: right;">Page 100</p> <p>1 transcript blank, so we can address it with the 2 magistrate judge after the deposition, with a 3 blank in the transcript for him to fill in if 4 her Honor orders us to do so. And he has 5 de-declined that as well. So we are now on the 6 phone with the court to see if she can address 7 this, I guess right now. 8 THE CLERK: Okay. And what's his current 9 job? 10 MR. CHEN: Mr. Stewart? Well, sir, the 11 thing is we don't want him to disclose -- I'm 12 asking not to have him disclose where he is 13 working right now. 14 THE CLERK: Okay. 15 MR. LURIE: And this is -- 16 THE CLERK: And your concern is that the 17 plaintiff -- the plaintiff would use that to 18 harass him? 19 MR. CHEN: Yes. Assuming they don't have 20 that information already. 21 MR. LURIE: This is Joshua Lurie on behalf 22 of the plaintiffs. Mr. Stewart made his 23 current employment an issue multiple times in 24 this matter, specifically with response to his 25 ability to deal with sanctions, his reasonings</p> |
| <p style="text-align: right;">Page 99</p> <p>1 middle of the deposition of Mr. Stewart. And 2 the counsels have an issue they would like to 3 raise with her honor about a question that was 4 asked. 5 THE CLERK: Okay. One moment. 6 MR. CHEN: A question that was about to be 7 asked. 8 THE CLERK: Hi. This is David, Judge 9 Smith's law clerk. Are the parties for Kaltner 10 on the line? 11 MR. LURIE: Yes. 12 MR. CHEN: Yes. 13 THE CLERK: Can you just once again let us 14 know what the issue is in this dispute? 15 MR. CHEN: The issue is Mr. Lurie was 16 about to ask Mr. Stewart questions about his 17 current employment after this case has been 18 commenced, and our position is that it's not 19 relevant but more to the point, we're concerned 20 that his client might utilize that information 21 for the purposes of harassing Mr. Stewart. And 22 I would ask opposing counsel if we can give him 23 the information a way that it doesn't go to his 24 client. And he refused that. And I also 25 offered the proposition of leaving the</p> | <p style="text-align: right;">Page 101</p> <p>1 in this case, his ability to pay, any judgment. 2 There's been innumerable times when his 3 employment has been raised, specifically as of 4 most recent, he continuously states he's just 5 an Uber driver. He can't afford certain 6 things. There have been orders by this court 7 with respect to paying for the receipt of 8 discovery, which was not produced specifically 9 because Mr. Stewart claimed he was financially 10 unable to do so because he was a, quote on 11 quote, Uber driver. 12 THE CLERK: Mm-hmm. 13 MR. CHEN: And that's not a dispute, which 14 he disclosed that he works for Uber and Lyft. 15 MR. LURIE: This case also relates to, 16 amongst other things, the -- a professional 17 negligence claim. It's one of the pending 18 state actions included in here. And amongst 19 the other things, which we have been 20 investigating about, is his ability to be a 21 bookkeeper, finance, accounting, et cetera. I 22 believe that I have a right to inquire to 23 whether or not subsequent to his employment 24 that he's continuing along with this conduct 25 and performance. I believe that it's entirely</p> |

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| <p style="text-align: right;">Page 102</p> <p>1 relevant, and I made very clear to counsel, if 2 he believes there's a risk of harassment, 3 there's a method to deal with that, which would 4 be through an application for a protective 5 order pursuant to federal rule 26C; and he can 6 set forth his basis for the need of such a 7 protective order. 8 There is already one protective order in 9 place in this matter. So if he believes 10 there's a separate need so that that 11 information can be converted into attorneys 12 eyes only, he can provide that and give his 13 basis once again. 14 MR. CHEN: I propose it's a reasonable 15 compromise, we leave a blank in the transcript. 16 I make my application to the court. Mr. Lurie 17 opposes the application and state's why it 18 should be in the record; and if, you know, the 19 magistrate judge orders my client to disclose 20 the information, then we will just write it 21 into the transcript. And if she decides that 22 it's attorney's eyes only, we can address it 23 that way. And if she decides he does not have 24 to disclose that has information, then the 25 transcript remains with a blank, if it's too</p> | <p style="text-align: right;">Page 104</p> <p>1 line of questions about what Mr. Stewart is 2 doing now. I would like, however, to have 3 either a protective order or just omit entirely 4 the location and the name of the company he 5 works now because he's afraid of harassment by 6 Mr. Kaltner. That's pretty much the sort of 7 it. 8 MR. LURIE: Judge, once again this is 9 Joshua Lurie on behalf of the plaintiffs. I 10 really don't even know where to begin with 11 this. This is a standard deposition question. 12 Mr. Stewart believes that there maybe some form 13 of harassment. He's got claims he can make if 14 anything takes. I made clear to Mr. Chen prior 15 to this call that this is the type of 16 information which is typically subject to a, if 17 he legitimately believe it, to a protective 18 order pursuant to 26C, and he can make the 19 application. It can be as simple as a 20 redaction out on all public records, except for 21 attorneys' eyes only as to the name of the 22 employer. But I don't believe that this was, 23 it was necessary to go down this route in 24 calling the courts, since this a something 25 that's just typical and could have been handled</p> |
| <p style="text-align: right;">Page 103</p> <p>1 complicated to address over the telephone. 2 MR. LURIE: And of course, the issue with 3 that is during this, if there are follow-up 4 questions, that my -- I am now prejudiced for 5 my ability to continue the inquiry with respect 6 to this. This is a deposition. It's relevant. 7 MR. CHEN: I have no issue with Mr. Lurie 8 asking what he does. It's just where he does 9 that I'm concerned about. 10 THE CLERK: Okay. Hold on one second, 11 please. 12 THE JUDGE: Good afternoon, counsel. 13 MR. CHEN: Good afternoon, your Honor. 14 MR. LURIE: Good afternoon, judge. 15 MR. CHEN: Sorry to call you again. This 16 Jacob Chen from Dai and Associates on behalf of 17 Mr. Stewart. I believe as your law secretary, 18 might have briefly advised you on, in short we 19 are at a point in the deposition where Mr. 20 Lurie was about to ask questions to Mr. Stewart 21 about where he works now; and as he explained 22 that he wants to know whether or not Mr. 23 Stewart is working in the realm of bookkeeping 24 and accounting and so on and so forth. 25 I have no objection to him continuing the</p> | <p style="text-align: right;">Page 105</p> <p>1 very easily, very quickly at the end of this 2 deposition by an application for protective 3 order, which would really result in nothing 4 more than, hate to say it, a couple of black 5 outs on the deposition transcript in the 6 certain copies of it and just notice that the 7 un-redacted versions of the deposition 8 transcripts are for attorneys eyes only and for 9 production of trial. 10 MR. CHEN: I have no issues with that, if 11 Mr. Lurie consents, which he did not advise me 12 he was consenting to that. I did propose for a 13 blank to be in the transcript, so that after 14 the deposition I make an application to the 15 court, and then the court can issue whether it 16 needs to be put in and whether or not it will 17 be redacted for Mr. Stewart to fill in later 18 after the deposition, when I make an 19 application. 20 THE JUDGE: Well, we're not going that 21 route. That doesn't accord with rule 30. Rule 22 30 is very clear. A person may instruct a 23 deponent not to answer, only when necessary to 24 preserve a privilege, to enforce a limitation 25 ordered by the court -- that means already</p> |

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| <p style="text-align: right;">Page 106</p> <p>1 ordered by the court -- or to present a motion 2 under rule 30D3. A motion under 30D3 would 3 have to be on the grounds that the deposition 4 is being conducted in bad faith or in a manner 5 that unreasonably annoys, embarrasses, or 6 oppresses the deponent or party. And I don't 7 hear that as a basis either. So I think Mr. 8 Lurie's suggestion is an appropriate one. 9 I suggest that you try to resolve it in 10 that fashion. And of course, Mr. Lurie, you 11 and your client are well aware that you won't 12 want to be on the receiving end of a motion 13 seeking sanction for some kind of conduct 14 impacting on the defendant's current 15 employment. 16 MR. LURIE: Absolutely, judge. We don't 17 want to have anymore lawsuits in this related 18 to these parties. So, yes, absolutely. But 19 once again, our position is, and we thank you, 20 your Honor, because I do believe this would 21 just be subject to the protective order 22 application. 23 THE JUDGE: I think that makes a great 24 deal of sense. Why don't you move forward in 25 that fashion?</p> | <p style="text-align: right;">Page 108</p> <p>1 A 251 East 110th Street, New York City, 2 10029. 3 Q Located in Manhattan? 4 A Yeah. 5 Q What type of company is Mints Events? 6 A It's a party event company. 7 Q And what's your employment there? What's 8 your job? 9 A Billing and collection. 10 Q I presume from the title, your job is to 11 send out bills and collect payments? 12 A Yes, it is. 13 Q Do you do any other services for this 14 company? 15 A Some deliveries. 16 Q Do you do any accounting work? 17 A I have access to QuickBooks. 18 Q Do you do the bookkeeping? 19 A No. That's Ginger-something. That's a 20 bookkeeper. 21 Q The company has a separate bookkeeper? Do 22 you -- strike that. In a professional sense for 23 your job doing billing and collections, do you 24 interact with the bookkeeper other than to provide 25 information with respect to the billings and</p> |
| <p style="text-align: right;">Page 107</p> <p>1 MR. CHEN: Will do, your Honor. Thank 2 you. 3 MR. LURIE: Thank you, Judge. 4 Q And just so that the record is on here, 5 you might want to make a notation for this after the 6 deposition for your application for a protective 7 order and go from there. 8 MR. CHEN: I just want to note on the 9 record that this is what I intend to do, either 10 today or sometime tomorrow, depending on how 11 late the deposition goes today. 12 MR. LURIE: We'll try and move through. 13 Q Mr. Stewart, are you still driving for 14 Uber and Lyft? 15 A On occasion, yes. 16 Q Are you currently employed? 17 A Yes. 18 Q Are you currently employed on a full-time 19 basis? 20 A Yes. 21 Q And by whom are you employed? 22 A Mint Events Inc. 23 Q Can you please spell that? 24 A M-I-N-T-S, E-V-E-N-T-S, Inc. 25 Q And where is that located?</p> | <p style="text-align: right;">Page 109</p> <p>1 collections? 2 A I would say, yes. 3 Q Do you assist her in any ways with the 4 bookkeeping duties? 5 A I enter my payments when I receive them. 6 I remote into it and enter the payment of the 7 invoice. 8 Q And this is in QuickBooks, you're saying? 9 A Do I reconcile? No. I don't. Journal 10 entry? No. 11 Q Do you do any auditing of it? 12 A No. 13 Q So it's -- basically it's billed -- you 14 send out the bills, and when payments come in, you 15 collect and type it into the computer? 16 A Yes. 17 Q When did you begin working for this 18 company? 19 A I think -- officially, I'm not sure. I 20 think it was April 1st. I think. Yeah. 21 Q Of this year? 22 A Yes. 2018. 23 Q And unofficially, when were you providing 24 services? 25 A Since January.</p> |

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| <p style="text-align: right;">Page 110</p> <p>1 Q And that was also providing billing and 2 collection work? 3 A Yes. 4 Q And they made you a full-time employee? 5 A Yes. 6 Q Now, name has been out there several 7 times. So I'm going to get very specific on this. 8 Your familiar with George Kaltner, correct? 9 A Yes. 10 Q When did you first meet him? 11 A 2004, when I started Managed Systems. 12 Q How did you meet him? 13 A An agency referred me to a posting. And 14 that's when I met him. 15 Q What agency? 16 A I think We Work, or -- I don't know. 17 America Works. Yeah. That was the name. Woo. 18 Q And you continued working for Managed 19 Systems, as eventually I believe your testimony was 20 logistics manager at some juncture? 21 A At the end, towards the end, yes. 22 Q And managed systems closed down? 23 A Yes. 24 Q Were you there when it closed down? 25 A No.</p> | <p style="text-align: right;">Page 112</p> <p>1 qualifications that you gained in the time between? 2 A No. To the best of my knowledge, no. He 3 knew me as an employee of Managed Systems, so. 4 Q While you were providing services for 5 Sales Technologies and later Avatar Technologies, 6 Inc., did you hire anyone? 7 A No. 8 Q Did you fire anyone? 9 A No. 10 Q Did you manage anyone? 11 A No. 12 Q Did you train anyone? 13 A Yes. 14 Q Who did you train? 15 A Staff in Philippines. 16 Q Staff in the Philippines. What did you 17 train them in? 18 A How to collect and apply the money to the 19 invoices when they -- the wires that come into the 20 bank account. 21 Q What other documents did you -- strike 22 that. What other duties did you have while 23 providing services for either Sales Technologies or 24 Avatar Technologies, Inc.? 25 A Reboot servers if they were down, office</p> |
| <p style="text-align: right;">Page 111</p> <p>1 Q Were you terminated before that, or were 2 -- did you just leave? 3 A I was terminated. 4 Q And now, as we said, sometime in 2011 or 5 2012, you started to provide services for Mr. 6 Kaltner again, correct? 7 A Yes. 8 Q Tell me how that began? 9 A A phone call to George's number that I had 10 in my phone; and I called it, and he picked up, said 11 hey, Dave, come over. I think it was a Friday; and 12 I have a new project we're working on. And I 13 joined. I went over there. He showed me how to 14 bill, the air time of the dialer system, and that's 15 where it all started. 16 Q Did you discuss your background with him 17 between the times of working for Managed Systems and 18 -- besides these couple of little projects that you 19 had with him along the lines, did you discuss your 20 background with him at that point? 21 A Yeah. He -- I guess he asked me, you 22 know, what I did. And I -- where have you been; 23 and, like, oh, I went to Monroe College to get an IT 24 degree. 25 Q Did you discuss any experience or</p> | <p style="text-align: right;">Page 113</p> <p>1 manage the building, interact with clients for 2 issues they were having with their bills. 3 Q Customer service, type thing? 4 A Customer service. 5 Q Anything else? 6 A Order food, reserve airline tickets, all 7 of the stuff I answered in the FL -- 8 MR. CHEN: FLSA. 9 A FLSA. 10 Q Okay. Did you ever provide any audits for 11 Sales Technologies? 12 A No. 13 Q Any audits for Avatar Technologies, Inc.? 14 A Not to my knowledge. 15 Q Did you interact with the accountants? 16 A Yes. 17 Q Why were you interacting with the 18 accountants? 19 A Whatever information they did not know, 20 they would ask me; and then I would get the 21 information from George. 22 Q Do you have access to QuickBooks there? 23 A Of course. 24 Q What were you doing on QuickBooks over 25 there?</p> |

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| <p style="text-align: right;">Page 114</p> <p>1 A QuickBooks no. We used Fresh Books.</p> <p>2 Q You had access to Fresh Books?</p> <p>3 A Yes.</p> <p>4 Q What were you doing on Fresh Books.</p> <p>5 A That's where the billing application is.</p> <p>6 Q So you were doing billing?</p> <p>7 A Uh-huh.</p> <p>8 Q Collections?</p> <p>9 A Yes.</p> <p>10 Q Were you reconciling anything?</p> <p>11 A For Avatar -- Sales Technologies? No.</p> <p>12 Q You had so reconciliations at all?</p> <p>13 A No.</p> <p>14 Q Were you interacting with salespeople for</p> <p>15 Avatar or Sales Technologies?</p> <p>16 A Yes. Both.</p> <p>17 Q Were you auditing their commissions?</p> <p>18 A I was told to examine them.</p> <p>19 Q Did you have them pay you to do that?</p> <p>20 A What was that?</p> <p>21 Q Did you have any of these salespeople pay</p> <p>22 you to provide these audits?</p> <p>23 A Rauti would pay me \$100 to prepare his</p> <p>24 commissions.</p> <p>25 Q I'm sorry. Who was?</p> | <p style="text-align: right;">Page 116</p> <p>1 Q He owns it?</p> <p>2 A I don't know the percentage, but he has</p> <p>3 some interactions there. I don't know on paper. I</p> <p>4 don't know what it is. I'm not sure.</p> <p>5 Q Do you know when Avatar Technologies</p> <p>6 Philippines came into existence?</p> <p>7 A Not the exact date.</p> <p>8 Q Generally, can you estimate?</p> <p>9 A Sometime in 2013, I would say. Or 2012.</p> <p>10 Q Were you providing services for George</p> <p>11 Kaltner, Sales Technologies, Avatar Technologies at</p> <p>12 the time that Avatar Technologies Philippines came</p> <p>13 into being?</p> <p>14 A Yes.</p> <p>15 Q Were you involved in the formation of</p> <p>16 Avatar Technologies Philippines?</p> <p>17 A Define formation.</p> <p>18 Q Do you know when Avatar Technologies</p> <p>19 Philippines actually became a business in the</p> <p>20 Philippines?</p> <p>21 A No. Not fully.</p> <p>22 Q Do you -- were you -- strike that. Is it</p> <p>23 your testimony today that Avatar Technologies</p> <p>24 Philippines was formed on paper by Anamee Tehada</p> <p>25 but was actually formed by George Kaltner?</p> |
| <p style="text-align: right;">Page 115</p> <p>1 A Rauti would pay me \$100 to prepare his</p> <p>2 commissions to make sure it's accurate and nothing</p> <p>3 is missing.</p> <p>4 Q Anyone else?</p> <p>5 A I was ordered to do Peter's commission but</p> <p>6 there was no payment there.</p> <p>7 Q You previously spoke about Avatar</p> <p>8 Technologies Philippines, correct?</p> <p>9 A Yes.</p> <p>10 Q You're familiar with that?</p> <p>11 A Yes.</p> <p>12 Q Who owned it?</p> <p>13 A That's --</p> <p>14 Q Do you know who owned it?</p> <p>15 A On paper, or --</p> <p>16 Q At all. Do you know what owned it?</p> <p>17 A On paper I know exactly who owned it.</p> <p>18 Q On paper who owned it?</p> <p>19 A On paper it says Anamee Tehada.</p> <p>20 Q Avatar Technologies Philippines is owned</p> <p>21 by Anamee Tehada?</p> <p>22 A Yeah. Public records show.</p> <p>23 Q Anyone else have any ownership in Avatar</p> <p>24 Technologies philippines?</p> <p>25 A George.</p> | <p style="text-align: right;">Page 117</p> <p>1 A Anamee Tehada on paper, formed by George</p> <p>2 Kaltner, yes, with some people in the Philippines or</p> <p>3 something.</p> <p>4 Q With some people in the Philippines. They</p> <p>5 formed it?</p> <p>6 A Somehow, yes. Also --</p> <p>7 Q Do you know who ran Avatar Technologies</p> <p>8 Philippines?</p> <p>9 A Define ran.</p> <p>10 Q Who was the CEO? Do you know who the CEO</p> <p>11 was?</p> <p>12 A CEO on paper?</p> <p>13 Q CEO on paper. Who was the CEO on paper of</p> <p>14 Avatar Technologies Philippines.</p> <p>15 A That's Ted Nehls.</p> <p>16 Q Who was it actually?</p> <p>17 A On paper, it's Ted Nehls.</p> <p>18 Q But you said that's on paper. So --</p> <p>19 A I would say George ran both Avatar</p> <p>20 Technologies U.S. and Avatar Technologies</p> <p>21 Philippines.</p> <p>22 Q From its inception?</p> <p>23 A Yeah.</p> <p>24 Q And but it was on paper run by Ted Nehls?</p> <p>25 A Yeah.</p> |

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| <p style="text-align: right;">Page 118</p> <p>1 Q So Ted Nehls didn't do anything at all 2 over in the Philippines? 3 A I don't -- I'm not sure of your question. 4 Q Did he -- was he doing any actual real 5 work over there? 6 A That's something to discuss with Ted. I'm 7 not sure. 8 Q In your opinion, you're saying that he was 9 only CEO on paper. So what did he do, to the best 10 of your knowledge? 11 A He ran Avatar Philippines. 12 Q So he was running the business? 13 A Yeah. 14 Q He was the CEO? 15 A Yeah. 16 Q On paper and in actuality? 17 A Yeah. On paper in the Philippines, he 18 was, you know, the CEO. 19 Q But you were saying it's just on paper. I 20 don't understand what you mean by this. 21 A All right. You have U.S. documents and 22 you have Philippines. He was in the Philippines and 23 his title is the CEO. 24 Q Was he doing, to the best of your 25 knowledge, was he performing as CEO in the</p> | <p style="text-align: right;">Page 120</p> <p>1 MR. CHEN: You never went to law school? 2 THE WITNESS: Yeah. 3 Q Never know. I mean, know people who went 4 to business school and know this a lot better than I 5 do, and I've got plenty experience. Okay. So -- 6 MR. CHEN: If there's no question pending, 7 I need to use the restroom. 8 THE VIDEOGRAPHER: We're now off the 9 record. The time of the video monitor is 2:44 10 P.M. 11 (A short break was taken.) 12 THE VIDEOGRAPHER: We're now on the 13 record. The time on the video monitor is 2:52 14 P.M. 15 Q Mr. Stewart, please just refresh my 16 recollection. When was the first time that you 17 traveled to the Philippines? 18 A About June, 2014. 19 Q What was your basis for going to the 20 Philippines at that time, what was yours reason? 21 A My reason? 22 Q Yes. 23 A By boss sent me to the Philippines to 24 check on employees, possibly stealing. He got a 25 message from an employee that stated that there</p> |
| <p style="text-align: right;">Page 119</p> <p>1 Philippines? 2 A Yes. 3 Q Do you have experience or knowledge about 4 how a corporation operates? 5 A No. I don't fully -- 6 Q Are you familiar with something that's 7 called a board of directors? 8 A Yeah. 9 Q What's your understanding of what a board 10 of directors does? 11 A Board of directors is a bunch of people 12 that manage a company, I guess. That's the most I 13 can say about it. 14 Q Do you, personally -- if you don't, I want 15 you to tell me. Don't guess. Don't speculate. 16 A Okay. 17 Q Do you know the difference between a CEO 18 of a business, and a chairperson, or president, or 19 -- I'm sorry. Chairperson or -- 20 A No. 21 Q Board of directors? 22 A No. 23 Q So you don't understand how those two 24 interact at all? 25 A No, never paid much attention to it.</p> | <p style="text-align: right;">Page 121</p> <p>1 might be theft of items going on. 2 Q And this was approximately in June of 3 2014? 4 A Mm-hmm. 5 Q Are you familiar with the company called 6 that either existed then or may still exist called 7 Surrogate Technologies? 8 A Am I familiar with the name? Yes. 9 Q To the best of your knowledge, what is 10 surrogate technologies? 11 A There's a company that is in the 12 Philippines. And they do business in the 13 Philippines as a call center. 14 Q Know anything else about Surrogate 15 Technologies? 16 A They're ex-employees of Avatar, operating 17 it, and ex-employees of that company over in Avatar 18 spying for them -- spying on them. 19 Q You're familiar that there was an 20 extensive litigation going on in the Philippines 21 with respect to Surrogate Technologies, correct? 22 A Yes. 23 Q What was your knowledge of what that 24 litigation was? 25 A That litigation, what I knew they were</p> |

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| <p style="text-align: right;">Page 122</p> <p>1 trying to -- Avatar was trying to block them from 2 operating. 3 Q Do you know what their basis was to block 4 them from operating? 5 A Theft -- I believe the same thing I'm 6 going through here, copyright infringement and 7 operating outside of the non-compete. 8 Q To the best of your knowledge, what is a 9 copyright infringement? 10 A To the best of my knowledge, um, using the 11 name and operating under that name, or something 12 similar. 13 MR. CHEN: I'll object to the line of 14 questioning; but, you know, you can ask and 15 he'll try to answer to the best of his 16 abilities. 17 MR. LURIE: Yeah. I understand. 18 Q Do you know the difference between a 19 copyright and a trademark? 20 A No. I've just heard those words and yeah. 21 Q Are you familiar with a company in New 22 Jersey called RPI or Residential Programs Inc.? 23 A Oh, yeah. 24 Q What is RPI? 25 A Client of Avatar.</p> | <p style="text-align: right;">Page 124</p> <p>1 A I don't know the specific of the, you 2 know, legal proceeding; but I know from what 3 happened. 4 Q Did you tell anyone that -- strike that. 5 Do you know who wrote the documents that you were 6 bringing to the Philippines? 7 A Who's the author of it? 8 Q Yes. 9 A Like, the lawyer? 10 Q Yes. Who was the lawyer? 11 A Mr. Strupinsky. 12 Q And he had drafted some legal documents, 13 and you were delivering them to a judge in the 14 Philippines? 15 A Delivering them -- I was supposed to be 16 delivering them to Ted to bring to a judge, with 17 other things. 18 Q Do you understand how a Filipino legal 19 system works? 20 A No. 21 Q Do you understand how a subpoena in the 22 Philippines works? 23 A No. 24 Q Do you understand with respect to costs 25 associated with subpoenas being executed in the</p> |
| <p style="text-align: right;">Page 123</p> <p>1 Q Do you know anything else about RPI? 2 A They were in a heated battle with Avatar 3 technologies. 4 Q Do you know what that battle was about? 5 A Something about copyright infringement, I 6 assume. 7 Q Do you recall being asked at some point to 8 go to the Philippines to bring a quote-on-quote 9 wet-ink affidavit and quote-on-quote wet-ink legal 10 memorandum to a judge regarding U.S. copyright laws? 11 A I don't know the specifics of what's on 12 the document, but I was sent there with the document 13 to drop it off. 14 Q And did you read those documents by any 15 chance? 16 A No. 17 Q You don't know what the purpose was for 18 those documents? 19 A Oh, I do. 20 Q What was the purpose of those documents? 21 A To shut down Surrogate Technologies or to 22 -- yeah. 23 Q So, it was a legal proceeding providing 24 something to a judge in order to further the 25 shutting down of a competitor?</p> | <p style="text-align: right;">Page 125</p> <p>1 Philippines? And we talked briefly about this. 2 You're familiar with a company called Rainbow 3 Slushies and Pretzels? 4 A Yeah. 5 Q And what is Rainbow Slushies and Pretzels? 6 Or what was Rainbow Slushies and Pretzels? 7 A One of George's projects to create some 8 kind of -- a chain of stores to sell Rainbow 9 Slushies and Pretzels. 10 Q Like, a food-type vender? 11 A Yeah. 12 Q Were you involved in the formation of 13 Rainbow Slushies and Pretzels? 14 A No. 15 Q Were you involved in any way with Rainbow 16 Slushies and Pretzels? 17 A Yes. 18 Q And in what way were you involved with 19 Rainbow Slushies and Pretzels? 20 A George instructed me to watch how they 21 spend and make sure they don't overspend when 22 they're buying items, and watch out for people 23 padding the invoices and stuff. 24 Q Not exactly sure that I understand what 25 you mean by padding the invoices.</p> |

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| <p style="text-align: right;">Page 126</p> <p>1 A He was skeptical of people getting kick 2 backs from when they purchased items. 3 Q What people getting kick backs? 4 A Other employees of Avatar who was placed 5 in Rainbow Slushy. 6 Q Who was placed in Rainbow Slushy? 7 A A lot of different Avatar personnel. 8 Q When you say they were placed there, do 9 you know if they applied for a job? 10 A No. They were just shifted. 11 Q You're confident of that? 12 A No. I just saw people. 13 Q You don't know if there was an 14 advertisement placed and that said, tired of working 15 nights, come sell pretzels? 16 A Not sure about that. 17 Q By the way, do you know what the hours 18 were for Avatar Technologies Philippines were? 19 A The hours for Avatar Technologies 20 Philippines? 21 Q What time were they operating? 22 A It was 24 hours, basically. 23 Q Do you know where Avatar Technologies 24 Philippines' clients were? 25 A Avatar Philippines' clients. You would</p> | <p style="text-align: right;">Page 128</p> <p>1 A One, two, three, and some other entities 2 like Australia or something. 3 Q You believe they had some Australian 4 clients? 5 A Yeah. They had -- I remember Australia 6 was something happening with that. 7 Q Is it -- strike that. Is it your 8 testimony today that you had no official 9 responsibilities with Rainbow Slushies and Pretzels 10 other than to basically spy and determine whether or 11 not any employees were taking kick backs? 12 MR. CHEN: What do you mean by official? 13 A Yes. 14 MR. CHEN: Objection to the form as to the 15 use of the word official. 16 Q Do you understand what I mean? 17 A No. I would like to be explained and 18 official -- 19 Q What -- when you went -- it's your 20 testimony here today that you were sent to the 21 Philippines as to Rainbow Slushies and Pretzels to 22 spy upon employees, correct? 23 A To make sure they don't over spend. 24 Q And to make sure that they're not 25 receiving kick backs?</p> |
| <p style="text-align: right;">Page 127</p> <p>1 have to define clients of Avatar Philippines. 2 Q What did Avatar Technologies Philippines 3 do? What was their business? 4 A Yeah, they were a call center. They 5 employed staff. 6 Q And what were they a call center for? 7 A For Avatar U.S. 8 Q And you're confident of that? 9 A They worked together. 10 Q You're confident that Avatar Technologies 11 Philippines was a call center for Avatar 12 Technologies U.S., correct? 13 A To the best of my knowledge. 14 Q And is it your position that the client, 15 that Avatar Technologies Philippines had no clients, 16 they were clients of Avatar Technologies U.S.? 17 A I wouldn't know how to answer that, when 18 it comes to Avatar Philippines and their clients. 19 Q Do you -- strike that. Do you know who 20 Avatar Technologies Philippines was making calls 21 for? 22 A Yes. I would -- best of my knowledge 23 would be Avatar -- Avatar Technologies U.S. United 24 Dental Envision, and Sales Technologies. 25 Q So all U.S. companies?</p> | <p style="text-align: right;">Page 129</p> <p>1 A Uh-huh. 2 Q Yes? 3 A Yes. 4 Q Did you have any official formal title as 5 to Rainbow Slushies and Pretzels? 6 A No. Not to my knowledge. 7 Q Did you have anything -- strike that. 8 Were you to do anything else at all with respect to 9 Rainbow Slushies and Pretzels? 10 A Maybe I created a spread sheet for them to 11 manage items they purchased. 12 Q Like a -- strike that. What do you mean a 13 spread sheet to manage items that they purchased? 14 A They would purchase flour, sugar; and I 15 created a spread sheet that shows when the level is 16 low, and for them to reorder items. 17 Q So, in other words, I hate to say it this 18 way, a glorified shopping list? 19 A Yes. 20 Q Any other duties as to Rainbow Slushies 21 and Pretzels? 22 A Their accounting team would send me the 23 weekly -- the daily totals, and I would put them in 24 a spread sheet and send that to George. 25 Q So you were doing some accounting work for</p> |

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| <p style="text-align: right;">Page 130</p> <p>1 them?</p> <p>2 A I built spread sheets and I could, you</p> <p>3 know, tally them up and produce a number basic</p> <p>4 stuff.</p> <p>5 Q If I understand this correctly, and please</p> <p>6 correct me if I'm wrong, somewhat low level auditing</p> <p>7 of what was going on with the costs?</p> <p>8 A If you say so.</p> <p>9 Q If I'm not correct in what I'm saying,</p> <p>10 please tell me that I'm wrong.</p> <p>11 A I don't know if I would say auditing. I</p> <p>12 am the connection to what people sent information,</p> <p>13 and I get it to George. I'm, like, secretary and</p> <p>14 all that other stuff.</p> <p>15 Q You're basically --</p> <p>16 A A conduit.</p> <p>17 Q I believe that you've said this in other</p> <p>18 depositions, so correct me if I'm wrong. You're</p> <p>19 basically George's number two. That's what you were</p> <p>20 -- and I hate to -- as in pretty much, you were the</p> <p>21 one who you would go to before anything would need</p> <p>22 to be elevated to quote-on-quote the owner, correct?</p> <p>23 A Not go to. I worked there. I worked with</p> <p>24 George for years. So he would tell me where he's</p> <p>25 going, and I would just -- I'm a communicator. I</p> | <p style="text-align: right;">Page 132</p> <p>1 Q Do you recall what the reasoning was that</p> <p>2 it closed down?</p> <p>3 A They were losing money.</p> <p>4 Q Jump a little bit forward now, April of</p> <p>5 2015. Started providing services for my client,</p> <p>6 then, correct?</p> <p>7 A Yes.</p> <p>8 Q I don't want to get into the dispute over</p> <p>9 -- okay. Did you -- strike that. Did you</p> <p>10 communicate with any employees or -- strike that.</p> <p>11 Did you communicate with any employees of Avatar</p> <p>12 Technologies after you ceased providing services in</p> <p>13 April of 2015?</p> <p>14 A Avatar Technologies U.S.?</p> <p>15 Q U.S.</p> <p>16 A Of course.</p> <p>17 Q Who were you in contact with at that time?</p> <p>18 A I spoke to Allen, I spoke to Stephanie, I</p> <p>19 spoke to Breeya, I spoke to Ben most likely, Rauti.</p> <p>20 Q Who -- just so we have clarity on this.</p> <p>21 Who is Allen?</p> <p>22 A Allen was the --</p> <p>23 Q What's his last name?</p> <p>24 A Allen Webb, W-E-B-B. He was in charge of</p> <p>25 all of the equipments at the job.</p> |
| <p style="text-align: right;">Page 131</p> <p>1 communicate information.</p> <p>2 Q When did you return to the U.S.?</p> <p>3 A About September 29th, either September or</p> <p>4 October 29th, I'm not sure.</p> <p>5 Q This is of 2014?</p> <p>6 A Yeah.</p> <p>7 Q Yes?</p> <p>8 A Yes.</p> <p>9 Q Starting to do that over and over before</p> <p>10 the court reporter starts to do that to. Was</p> <p>11 Rainbow Slushies and Pretzels till operating by the</p> <p>12 time you returned to the United States?</p> <p>13 A Yes.</p> <p>14 Q Still operating now?</p> <p>15 A No.</p> <p>16 Q Are you familiar with when Rainbow Slushy</p> <p>17 closed?</p> <p>18 A Pretty sure it was in my email, that we're</p> <p>19 shutting down Rainbow Slushies and Pretzels. We're</p> <p>20 losing money, or something like that, George wrote</p> <p>21 to the staff down there. And Oscar liquidated the</p> <p>22 assets.</p> <p>23 Q Do you recall when that was?</p> <p>24 A No. I'm not sure, sometime in maybe</p> <p>25 November or December of 2014.</p> | <p style="text-align: right;">Page 133</p> <p>1 Q What do you mean by equipment?</p> <p>2 A All of the servers, like, constructing --</p> <p>3 putting them online.</p> <p>4 Q So he built the servers?</p> <p>5 A Yeah.</p> <p>6 Q Who else?</p> <p>7 A I assume Ben.</p> <p>8 Q That's Ben Tal?</p> <p>9 A Tal.</p> <p>10 Q T-A-L. What was Ben's position?</p> <p>11 A He did the same thing Allen did, but then</p> <p>12 he was sent to the Philippines to work in Avatar</p> <p>13 Technologies Philippines.</p> <p>14 Q So he was building and running servers?</p> <p>15 A Yes.</p> <p>16 Q Who else?</p> <p>17 A You want me to list every -- I'm not sure</p> <p>18 if I 100% booked them; but there were people in the</p> <p>19 office at the time.</p> <p>20 Q Mr. Stewart, how many cell phones do you</p> <p>21 have?</p> <p>22 A Currently?</p> <p>23 Q Yes.</p> <p>24 A One.</p> <p>25 Q How many cell phone numbers do you have?</p> |

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| <p style="text-align: right;">Page 134</p> <p>1 A One.</p> <p>2 Q In July of 2017 how many cell phone</p> <p>3 numbers did you have?</p> <p>4 A July of 2017?</p> <p>5 Q Yes.</p> <p>6 A One.</p> <p>7 Q Do you pay your cell phone bill?</p> <p>8 A Yes.</p> <p>9 Q Are you familiar with your cell phone</p> <p>10 bill?</p> <p>11 A Yes.</p> <p>12 Q Who is your cell phone bill with?</p> <p>13 A July, 2017? That's a year from now? I</p> <p>14 would assume Sprint. Yeah. Sprint.</p> <p>15 Q Have you changed your cell phone carrier?</p> <p>16 A Prior to that, I was with T-Mobile, maybe.</p> <p>17 And I was at Verizon at one point.</p> <p>18 Q Subsequent to July of 2015 [sic], have you</p> <p>19 changed your cell phone carrier?</p> <p>20 A July -- after July 2015?</p> <p>21 Q 2017.</p> <p>22 A Yeah. It changed over the years. I</p> <p>23 changed from one to the next, to the next.</p> <p>24 Q I understand.</p> <p>25 A I don't remember, exactly.</p> | <p style="text-align: right;">Page 136</p> <p>1 people asking them to invest in lawsuits against</p> <p>2 George Kaltner?</p> <p>3 A I'm not sure. You would have to show me a</p> <p>4 document to refresh my memory or something.</p> <p>5 Q Sure, let's do this one next.</p> <p>6 MR. CHEN: Eight.</p> <p>7 MR. LURIE: Getting to my list that I have</p> <p>8 on here too before -- if I don't keep track of</p> <p>9 where they are on my page -- let's do this as</p> <p>10 eight.</p> <p>11 (Stewart Eight was marked for</p> <p>12 identification.)</p> <p>13 Q Mr. Stewart, I'm presenting to you what's</p> <p>14 been premarked as Stewart Eight for identification</p> <p>15 purposes. This is an excerpt. I'll represent to</p> <p>16 you this was taken out of, say, except of a text</p> <p>17 message taken from your cell phone; and this is with</p> <p>18 the telephone number XXX-XXX-XXXX; and as I</p> <p>19 understand based upon prior parts of this text, and</p> <p>20 we'll get into this a little bit more. I believe</p> <p>21 that this was a text with the individual I asked you</p> <p>22 about Daniella Daniel. Ask you just to read the</p> <p>23 first line here, first text message from this</p> <p>24 telephone number.</p> <p>25 A You said you want me to read this out?</p> |
| <p style="text-align: right;">Page 135</p> <p>1 Q Just listen to my question and answer the</p> <p>2 question if you know the answer. Subsequent to July</p> <p>3 of 2017, less than a year ago, have you changed your</p> <p>4 cell phone carrier?</p> <p>5 A Less than a year ago, not from Sprint, no.</p> <p>6 Q Who's telephone number then is</p> <p>7 XXX-XXX-XXXX. Same thing respect to the things we</p> <p>8 said about cell phones before.</p> <p>9 A What's the number?</p> <p>10 Q XXX-XXX-XXXX.</p> <p>11 A I don't remember numbers. But XXX, yeah,</p> <p>12 I'm not sure.</p> <p>13 Q What about XXX-XXX-XXXX?</p> <p>14 A Those might be numbers on my bill -- must</p> <p>15 be a relative.</p> <p>16 Q How many relatives have cell phones on</p> <p>17 your bill?</p> <p>18 A Plan? It's about six of us.</p> <p>19 Q You pay for it all?</p> <p>20 A Yeah.</p> <p>21 Q Who are the relatives?</p> <p>22 A My daughter, spouse, cousins.</p> <p>23 Q And you pay for all of their cell phones?</p> <p>24 A Uh-huh.</p> <p>25 Q Did you have any communications with</p> | <p style="text-align: right;">Page 137</p> <p>1 Q Just -- not out loud. Just read to</p> <p>2 yourself the first text message that you received on</p> <p>3 this page. Obviously, once again, this is an</p> <p>4 excerpt. Please let me know when you've had an</p> <p>5 opportunity read that first section.</p> <p>6 A I finished reading it.</p> <p>7 Q Do you recognize this telephone number?</p> <p>8 A No.</p> <p>9 Q Do you know people's telephone numbers, or</p> <p>10 are you just one of those people that keep your cell</p> <p>11 phone with names and stuff?</p> <p>12 A Yeah. I have names.</p> <p>13 Q So if you were to take out your cell phone</p> <p>14 and plug in the number, it would tell you who this</p> <p>15 is, correct?</p> <p>16 A Most likely, yes.</p> <p>17 Q What is whomever this is taking about when</p> <p>18 saying checking up on my investment?</p> <p>19 A I'm not sure. Did you ever have -- a</p> <p>20 casual conversation.</p> <p>21 MR. CHEN: Sorry. What's the question</p> <p>22 before the before the witness? I'm a little</p> <p>23 lost, here.</p> <p>24 Q I was asking him what he was talking about</p> <p>25 what type of investment he os discussing here. This</p> |

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| <p style="text-align: right;">Page 138</p> <p>1 person is checking up on their investment. 2 MR. CHEN: If you know what that 3 conversation is about. 4 MR. LURIE: If you know. 5 A I don't recall what this is about. A 6 person that's not even near Avatar or anything, so 7 just a conversation -- I don't know the relevance of 8 it. 9 Q That's fine. You can not know the 10 relevance of it. That's not important. 11 MR. LURIE: Let's do this as nine. 12 (Stewart Nine was marked for 13 identification.) 14 A I recall. I know what this is. Would you 15 like me to explain? 16 Q No. That's okay. 17 MR. CHEN: By this, you mean Exhibit Nine? 18 THE WITNESS: Exhibit Eight. 19 MR. CHEN: Oh, you figured out the -- 20 THE WITNESS: Yeah. 21 Q Mr. Stewart, I'm placing before you what's 22 been marked as Stewart Nine for identification 23 purposes. I'd ask you to take a look at this 24 document and read it in it's entirety. Have you had 25 an opportunity to finish reading this?</p> | <p style="text-align: right;">Page 140</p> <p>1 Q Who's the devil that you sold your soul 2 to? 3 A That would be where we are right now. 4 Q So your position is that by litigating a 5 case, you have sold your soul to the devil? 6 A Yeah. I'm fighting a fight because this 7 was initiated. 8 Q Once again is, is it your position here 9 that selling your soul to the devil, that term, 10 you're referring to being involved in litigation? 11 A That's the -- you know. 12 Q Let me ask you, Mr. Stewart, what is your 13 understanding of the proverb of selling your soul to 14 the devil? What does that mean? 15 A I've never read it; but I've heard the 16 phrase. 17 Q What does that phrase mean to you? 18 A Going to hell and come back. 19 Q That's your understanding of what selling 20 your soul to the devil means? 21 A Uh-huh. 22 Q Yes? 23 A Yes. To the best of my knowledge. 24 MR. LURIE: Let's mark this as Stewart 25 Ten.</p> |
| <p style="text-align: right;">Page 139</p> <p>1 A Yes. 2 Q Do you recognize this document? 3 A Yes. 4 Q Who's number is XXX-XXX-XXXX? 5 A Very personal, this. So do I have to put 6 it on the record? 7 Q Yes. 8 MR. CHEN: Yeah. Just answer it. And -- 9 A This is my daughter. 10 Q This is an excerpt, once again, from your 11 text messages. Says in here, in the middle of the 12 page, on October 24th, 2017 at 8:17 A.M., my first 13 born, I've neglected you so much. I hate this 14 property shit, but we'll be out of it. 15 What is this property shit that you're 16 referencing? 17 A It's a misspell. 18 Q And what was it supposed to be? 19 A Poverty. 20 Q And then going down a little bit further, 21 you say, I've worked hard over the past two years to 22 get funds beyond me needed L-O-L. And the next one 23 says, I even sold my soul to the devil. What does 24 that mean? 25 A I'm fighting the fight.</p> | <p style="text-align: right;">Page 141</p> <p>1 (Stewart Ten was marked for 2 identification.) 3 THE WITNESS: I thought these were 4 protected. 5 MR. CHEN: They are here for the purposes 6 of the litigation. 7 THE WITNESS: And how far do these go? I 8 don't want my daughter's number -- 9 MR. LURIE: Would you like to go off the 10 record for a moment? 11 MR. CHEN: Yeah, sure. 12 THE VIDEOGRAPHER: We are now off the 13 record. The time on the video monitor is 3:25 14 P.M. 15 (A short break was taken.) 16 THE VIDEOGRAPHER: We are new on the 17 record. The time on the video monitor is 3:32 18 P.M. 19 Q Mr. Stewart placed before you at this time 20 is what's been premarked as Stewart Ten for 21 identification purposes. Please take a moment to 22 look at that document. 23 Do you recognize this document, Mr. 24 Stewart? 25 A I'm reading through it. I recognize just</p> |

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| <p style="text-align: right;">Page 142</p> <p>1 this conversation. I don't know the number or a 2 name of this person. I see a number here, but I 3 can't -- 4 Q I understand because of how people don't 5 remember telephone numbers anymore. I'll tell you 6 an anecdote of just how bad that is. I tried to 7 call home yesterday and called my office number 8 because they start with the same area codes because 9 that's the only number that I know. 10 I really only want to ask you one question 11 about this document. In there, this document is 12 dated October 13th -- well, strike that. There's 13 some communications in here dated October 13, 2016, 14 correct? 15 A Yeah. 16 Q You send a text message to whomever this 17 is at 5:16 P.M. and amongst the things you say in 18 there, it says I'm supposed to see my ex-girlfriend 19 to get the, 5k needed to send to my players -- I 20 presume that's to your lawyers. Is that correct? 21 A Yeah. 22 Q Were you -- strike that. Who is the -- to 23 the best of you're recollection, who is this 24 ex-girlfriend that your referencing that you're to 25 be getting 5,000 from?</p> | <p style="text-align: right;">Page 144</p> <p>1 now? Strike that. 2 A Currently? 3 Q Prior to your current employment, driving 4 for Uber and Lyft, approximately how much money were 5 you making in a given month? 6 A Maybe, like, 2000. 7 Q So about 25 percent of your prior take 8 home? 9 A Mm-hmm. 10 Q And for a period of approximately 18 11 months, you have had no income, correct? 12 A I believe so. 13 Q You were struggling, correct? 14 A I don't know how struggling I was, but I 15 could survive. 16 Q You were -- strike that. Were you talking 17 to people about intending to file for bankruptcy 18 during that period of time? 19 A I'm not sure. I've never really thought 20 of bankruptcy. 21 Q Do you know what bankruptcy is, 22 technically what bankruptcy -- not just the word 23 that we use, bankruptcy. Do you know what 24 bankruptcy is? 25 A Yeah. When you gather all your assets and</p> |
| <p style="text-align: right;">Page 143</p> <p>1 A I have no idea. 2 Q Mr. Stewart, when did you begin driving 3 for Uber and Lyft? 4 A October 2016. Oh. Yeah. 5 Q So in approximately April of 2015, until 6 October of 2016, did you have any sources of income? 7 A Not that I know of. 2015 to October -- 8 Q April of 2015 through approximately 9 October of 2016, did you have any sources of income? 10 A Not sure. 11 Q Were you working at any time in that 12 period? 13 A No. I don't think so. 14 Q During the time you were providing 15 services for my clients, what was your approximate 16 take home? 17 A When I was providing services for avatar 18 sales technologies? 19 Q Yes. 20 A 8,000. 21 Q \$8,000 per month? 22 A Per month. 23 Q So approximately \$96,000 a year? 24 A Mm-hmm. 25 Q And how much approximately are you making</p> | <p style="text-align: right;">Page 145</p> <p>1 go to a lawyer and say, I have all these -- I mean, 2 not assets, but all your bills, and say, I can't 3 afford to pay and get me out of here. 4 Q Do you recall telling people that you were 5 bankrupt? 6 A Possibly, yeah. I could see me saying 7 that. 8 Q Would that have been within this period of 9 time between, roughly April of 2015 through October 10 of 2016? 11 A Possibly. 12 Q And once again, my apologies. My 13 intention is not to make you upset when I say this. 14 When you had the discussion with your daughter in 15 October of last year, 2017, you talk about poverty. 16 A Uh-huh. 17 Q Were you unable to pay your bills at that 18 time? 19 A No. I'm always able to pay my bills. But 20 -- my thoughts of poverty is making anything less 21 120,000 a year. So anything less than that, I would 22 consider poverty. 23 Q So for these years that you were providing 24 services for Avatar Technologies and Sales 25 Technologies, you were living in poverty?</p> |

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| <p style="text-align: right;">Page 146</p> <p>1 A I always thought I was living in poverty.</p> <p>2 Q Do you know what the average wage is for a</p> <p>3 person who lives in New York City?</p> <p>4 A That's -- those people -- I only think of</p> <p>5 my version of that.</p> <p>6 Q Would it surprise you that the average</p> <p>7 wage in New York City is less than \$50,000 a year?</p> <p>8 A No.</p> <p>9 Q So your position is, unless you were --</p> <p>10 strike that. Do you know what the average wage is</p> <p>11 in New York City to be considered in the top 10</p> <p>12 percent of income?</p> <p>13 A No.</p> <p>14 Q Would it surprise you if it's not that far</p> <p>15 away from \$120,000 a year?</p> <p>16 A Not something I care much about.</p> <p>17 Q So, your position is that you are in</p> <p>18 poverty, unless you're in the top 10 percent of</p> <p>19 income?</p> <p>20 A My number was 120 a year. So, I don't --</p> <p>21 I never read about it, but that's how I view</p> <p>22 poverty.</p> <p>23 Q Okay. And you were telling people that</p> <p>24 you're getting out of this poverty shit at this</p> <p>25 point, correct?</p> | <p style="text-align: right;">Page 148</p> <p>1 A It's easier to remember.</p> <p>2 Q In this text message you're asking for</p> <p>3 somebody to send you \$2,000 and they'll pay you back</p> <p>4 15 percent on capital?</p> <p>5 A Yeah.</p> <p>6 Q Who is that person that you sent this to?</p> <p>7 A I'm not sure. I just know it was somebody</p> <p>8 with this number.</p> <p>9 Q What are you soliciting \$2,000 for?</p> <p>10 A I think this is a request for \$2,000. I'm</p> <p>11 not selling anything.</p> <p>12 Q Soliciting. You're requesting. You're</p> <p>13 requesting \$2,000?</p> <p>14 A To borrow, I guess.</p> <p>15 Q And pay back 15% on capital?</p> <p>16 A Yep.</p> <p>17 Q You have a lot of people you borrowed</p> <p>18 money for and promised to pay them back a</p> <p>19 percentage?</p> <p>20 A Is it -- did I do this a lot? I'm not</p> <p>21 sure.</p> <p>22 Q Did you enter into any written promissory</p> <p>23 agreements with anyone for loaning you money?</p> <p>24 A Yeah.</p> <p>25 Q Who?</p> |
| <p style="text-align: right;">Page 147</p> <p>1 A Yeah. I always have optimism.</p> <p>2 Q Do this as Stewart 11.</p> <p>3 (Stewart Eleven was marked for</p> <p>4 identification.)</p> <p>5 MR. LURIE: I warned you. I got a lot of</p> <p>6 these exhibits.</p> <p>7 Q Mr. Stewart, I'm presenting to you what's</p> <p>8 been marked as Stewart Eleven for identification</p> <p>9 purposes. Looking at this document, a lot of it is</p> <p>10 some type of a link for PayPal. What I'm</p> <p>11 specifically interested in, is the first -- or a</p> <p>12 better way to put this, text -- the text message</p> <p>13 dated 6-12-17 at 4:58 A.M. Take a look at that for</p> <p>14 me. When you finish reading, just that one little</p> <p>15 section, let me know.</p> <p>16 A Okay.</p> <p>17 Q First question for you is, what is My</p> <p>18 Cash?</p> <p>19 A It's an app to, like, Zelle to transfer</p> <p>20 money.</p> <p>21 Q And you indicate that your -- is that your</p> <p>22 profile name on My Cash, being dollar sign, David</p> <p>23 TPO?</p> <p>24 A Yup.</p> <p>25 Q May I ask you why you utilize David TPO?</p> | <p style="text-align: right;">Page 149</p> <p>1 A I believe Rauti.</p> <p>2 Q What was the purpose of borrowing money</p> <p>3 from Rauti?</p> <p>4 A To help me file my cases, take care of my</p> <p>5 legal fees.</p> <p>6 Q Did you tell them that the purpose was to</p> <p>7 file lawsuits?</p> <p>8 A He didn't want to know.</p> <p>9 Q He didn't want to know what the purpose</p> <p>10 was for the money? You just asked him for money?</p> <p>11 A Yes.</p> <p>12 Q How much money did he lend you?</p> <p>13 A 10,000.</p> <p>14 Q You know someone well enough that they're</p> <p>15 going to lend you \$10,000?</p> <p>16 A He's family.</p> <p>17 Q What?</p> <p>18 A He's family.</p> <p>19 Q He's your family?</p> <p>20 A Yeah.</p> <p>21 Q Are you related to him?</p> <p>22 A Yeah. Through lines of cousins and --</p> <p>23 Q What's your relationship with him?</p> <p>24 A My cousin -- my wife is his cousin's -- I</p> <p>25 mean, his wife's cousin.</p> |

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| <p style="text-align: right;">Page 150</p> <p>1 Q So your --</p> <p>2 A Or my partner. My partner and his partner</p> <p>3 are cousins.</p> <p>4 Q So are you married?</p> <p>5 A No.</p> <p>6 Q You referred to the term my wife, now,</p> <p>7 several times.</p> <p>8 A Just a lose phrase used.</p> <p>9 Q And is your partner Yoledy?</p> <p>10 A Yes.</p> <p>11 Q You never legally married her?</p> <p>12 A No.</p> <p>13 Q Who is Stephanie Bariba.</p> <p>14 A Oh. That's -- oh, my friend Stephanie.</p> <p>15 That's just a friend of mine.</p> <p>16 Q Let's do this as Stewart 12.</p> <p>17 (Stewart Twelve was marked for</p> <p>18 identification.)</p> <p>19 Q Mr. Stewart, I'm presenting to you what's</p> <p>20 been marked as Stewart 12 for identification</p> <p>21 purposes. It's specifically a photograph of a lined</p> <p>22 piece of paper. I ask you to tell me if you</p> <p>23 recognize the document that this is a photograph of?</p> <p>24 A Yes.</p> <p>25 Q What is this document?</p> | <p style="text-align: right;">Page 152</p> <p>1 maybe. 2017 -- no, no. I'm not sure what that was</p> <p>2 for.</p> <p>3 Q You don't remember the purpose of</p> <p>4 borrowing a thousand dollars from --</p> <p>5 A Most likely to pay some kind of bills.</p> <p>6 Q But you were never struggling, correct?</p> <p>7 A Struggling --</p> <p>8 Q You never had financial struggles?</p> <p>9 A Maybe I needed, like, some extra money</p> <p>10 that day or something. I had to deal with something</p> <p>11 that I needed a thousand dollars. I was, like, oh,</p> <p>12 can I get a thousand dollars? She said, sure.</p> <p>13 Q How much is your rent?</p> <p>14 A I don't really have rent.</p> <p>15 Q You live in an apartment?</p> <p>16 A Yes.</p> <p>17 Q Do you own the apartment?</p> <p>18 A No.</p> <p>19 Q Who owns the apartment?</p> <p>20 A My grandmother.</p> <p>21 Q She owns it, or is she the tenant?</p> <p>22 A Tenant.</p> <p>23 Q Does she pay rent?</p> <p>24 A Yes.</p> <p>25 Q Do you pay her rent?</p> |
| <p style="text-align: right;">Page 151</p> <p>1 A An agreement.</p> <p>2 Q What agreement?</p> <p>3 A To borrow money.</p> <p>4 Q To borrow money from whom?</p> <p>5 A My friend Stephanie.</p> <p>6 Q What's the date of this agreement?</p> <p>7 A 9-13-2017.</p> <p>8 Q Okay. And what amount were you -- strike</p> <p>9 that. What was the purpose of borrowing money from</p> <p>10 her?</p> <p>11 A I had some bills to pay. And I borrowed</p> <p>12 money.</p> <p>13 Q And has agreed to pay interest in the</p> <p>14 amount of \$250, correct?</p> <p>15 A Yes.</p> <p>16 Q So 25 percent interest within one year?</p> <p>17 A Yup.</p> <p>18 Q What bills did you need to pay?</p> <p>19 A I'm not sure. I might have wanted to take</p> <p>20 a trip or something. I don't know.</p> <p>21 Q Did you take a trip in September of 2017?</p> <p>22 A Maybe I just came back from a trip.</p> <p>23 Q Where would you have come back from in</p> <p>24 September of 2017?</p> <p>25 A I think I went to the Dominican Republic,</p> | <p style="text-align: right;">Page 153</p> <p>1 A Not really. She would, you know -- I</p> <p>2 would help her if she ever low on her rent.</p> <p>3 Q Who else lives in this apartment?</p> <p>4 A My partner and two kids.</p> <p>5 MR. CHEN: He testified earlier to that in</p> <p>6 the FSLA case.</p> <p>7 Q And your grandmother also lives there?</p> <p>8 A Yeah.</p> <p>9 Q Anyone else?</p> <p>10 A No.</p> <p>11 Q And your grandmother pays all the rent?</p> <p>12 A If she's low, I'm there.</p> <p>13 Q When's the last time you paid rent?</p> <p>14 A Not a -- I don't know. It's -- that's --</p> <p>15 we're family, so.</p> <p>16 Q Do you remember the last time that you had</p> <p>17 to pay any money for rent?</p> <p>18 A I always contribute.</p> <p>19 Q How much do you contribute?</p> <p>20 A Could be all, or some, part. It varies.</p> <p>21 Q How much was the last amount that you</p> <p>22 paid?</p> <p>23 A The last amount?</p> <p>24 Q Yes.</p> <p>25 A The entire rent.</p> |

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| <p style="text-align: right;">Page 154</p> <p>1 Q What was the entire rent?</p> <p>2 A 852-something.</p> <p>3 Q Rent controlled apartment, I take it?</p> <p>4 A Very much so.</p> <p>5 Q Those of us who have ever looked at an</p> <p>6 apartment here know 852 in the city is a shock. Do</p> <p>7 you pay utilities?</p> <p>8 A Yeah.</p> <p>9 Q What are the utilities that you pay?</p> <p>10 A Gas, light, cable.</p> <p>11 Q How much do you pay for cable?</p> <p>12 A I'm not sure.</p> <p>13 Q Approximately how much do you pay for</p> <p>14 cable?</p> <p>15 A Fifty dollars, a hundred dollars. I'm not</p> <p>16 sure.</p> <p>17 Q Do you pay the bills yourself?</p> <p>18 A No. I don't touch. I drop money and</p> <p>19 other people take care of the bills and stuff. I</p> <p>20 don't deal with that.</p> <p>21 Q How much money did you drop?</p> <p>22 A I don't know. It varies.</p> <p>23 Q How much money did you provide -- strike</p> <p>24 that. Who do you provide the money to to pay these</p> <p>25 bills?</p> | <p style="text-align: right;">Page 156</p> <p>1 Kaltner?</p> <p>2 A Oh. That Honda. Yeah.</p> <p>3 Q You're still driving that vehicle?</p> <p>4 A Yeah.</p> <p>5 Q So no car payments?</p> <p>6 A No.</p> <p>7 Q Pay for maintenance plan?</p> <p>8 A No.</p> <p>9 Q Strike that. Does Uber or Lyft reimburse</p> <p>10 you for gas?</p> <p>11 A No.</p> <p>12 Q Do they reimburse you for tolls?</p> <p>13 A Yes.</p> <p>14 Q Is it part of what you get paid from --</p> <p>15 A It's separate. Tolls is reimbursed</p> <p>16 automatically every time you travel with the</p> <p>17 passenger.</p> <p>18 Q So you have a passenger in the car, you</p> <p>19 drive through the Lincoln Tunnel, for example, from</p> <p>20 Jersey to New York, you get a 13-dollar extra charge</p> <p>21 on your --</p> <p>22 A Yeah.</p> <p>23 Q You have to cover your own gas costs?</p> <p>24 A Yes.</p> <p>25 Q Approximately what was your monthly gas</p> |
| <p style="text-align: right;">Page 155</p> <p>1 A Yoledy.</p> <p>2 Q And how much money do you provide to her</p> <p>3 --</p> <p>4 A I don't deal with that at all. She goes</p> <p>5 into the account and takes what ever she needs.</p> <p>6 Q Can you estimate your monthly expenses?</p> <p>7 A Thousand dollars.</p> <p>8 Q Do you have to pay any student loans?</p> <p>9 A Oh, yes.</p> <p>10 Q How much do you pay in student loans a</p> <p>11 month?</p> <p>12 A I'm not sure. I postponed them for the</p> <p>13 last four years, I guess. So I don't have to pay.</p> <p>14 Q Do you pay car insurance?</p> <p>15 A Oh, yeah.</p> <p>16 Q How much is your car insurance?</p> <p>17 A That, I know is 700 and something.</p> <p>18 Q A year?</p> <p>19 A Every six months.</p> <p>20 Q So approximately 1400 in change?</p> <p>21 A Yes.</p> <p>22 Q And are you still driving the Honda?</p> <p>23 A The Honda?</p> <p>24 Q The Honda that -- I don't know what the</p> <p>25 model is, the fast back that you received from Mr.</p> | <p style="text-align: right;">Page 157</p> <p>1 payment?</p> <p>2 A I'm not sure.</p> <p>3 Q Did you do it on a credit card, or did you</p> <p>4 do it in cash?</p> <p>5 A It's done through the Uber app. So I</p> <p>6 never monitored.</p> <p>7 Q If you were to take a look at the Uber</p> <p>8 app, would it be able to tell you how much your</p> <p>9 monthly gas costs were?</p> <p>10 A If I was to put it in a Excel spreadsheet,</p> <p>11 yes, I would know. But I never --</p> <p>12 Q Is that available on the Uber app?</p> <p>13 A It's there. I don't know if I can copy it</p> <p>14 and put it in Excel.</p> <p>15 Q If you were to estimate, how much money</p> <p>16 did you have to spend on gas per month?</p> <p>17 A I never even paid attention. I did it</p> <p>18 once in a spread sheet, but I didn't --</p> <p>19 Q You previously -- strike that. Do you</p> <p>20 know how much your cell phone bill is?</p> <p>21 A 250 a month.</p> <p>22 Q Do you know approximately how much --</p> <p>23 strike that. Do you have any credit cards?</p> <p>24 A Yeah.</p> <p>25 Q Do you have balances on those credit</p> |

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| <p style="text-align: right;">Page 158</p> <p>1 cards?</p> <p>2 A Yes.</p> <p>3 Q Approximately what is your monthly payment</p> <p>4 on credit card balances?</p> <p>5 A Maybe a thousand dollars.</p> <p>6 Q When you gave me the amount of thousand</p> <p>7 dollars in expenses, did you include your credit</p> <p>8 card?</p> <p>9 A No.</p> <p>10 Q Did you include your cell phone?</p> <p>11 A No. Just apartment expenses. That was my</p> <p>12 determination.</p> <p>13 Q So your estimate, to me, that you're</p> <p>14 bringing in about \$20,000 -- or \$2,000 a month,</p> <p>15 correct?</p> <p>16 A Mm-hmm.</p> <p>17 Q And you're paying a thousand dollars in</p> <p>18 living expenses. So that's a thousand?</p> <p>19 A Mm-hmm.</p> <p>20 Q A thousand dollars in credit card, and</p> <p>21 \$250 a month itself?</p> <p>22 A Yeah.</p> <p>23 Q Any other expenses?</p> <p>24 A Not that I know.</p> <p>25 Q You're paying approximately \$2,250 a month</p> | <p style="text-align: right;">Page 160</p> <p>1 Q So your credit card costs have increased</p> <p>2 at the time you were providing services, ending in</p> <p>3 approximately in April of 2015?</p> <p>4 A Yeah.</p> <p>5 Q How many individuals do you owe money to?</p> <p>6 A Maybe two.</p> <p>7 Q Two people?</p> <p>8 A That I know of.</p> <p>9 Q Who are the two people you owe money to?</p> <p>10 A Stephanie and Rauti. That's it.</p> <p>11 Q So you have outstanding debts of, to</p> <p>12 individuals of approximately \$11,000 plus interest?</p> <p>13 A Yes.</p> <p>14 Q How much interest did you agree to pay</p> <p>15 Rauti?</p> <p>16 A Yes, we didn't agree on any anything</p> <p>17 because --</p> <p>18 Q So it's just to take \$10,000 and pay me</p> <p>19 back when you can?</p> <p>20 A Yeah. Basically.</p> <p>21 MR. LURIE: If you're done with that line</p> <p>22 of questioning, can we take a quick break?</p> <p>23 THE VIDEOGRAPHER: We are now off the</p> <p>24 record. The time on the video monitor is 3:57</p> <p>25 P.M.</p> |
| <p style="text-align: right;">Page 159</p> <p>1 in expenses and bringing in approximately \$2,000 a</p> <p>2 month, thereby having a net of negative \$250 per</p> <p>3 month, correct?</p> <p>4 A It varies with the Uber. Like, you know,</p> <p>5 I also do Lyft. You know. So.</p> <p>6 Q Well, I believe I asked you what your</p> <p>7 total monthly income was from driving Uber and Lyft.</p> <p>8 A Oh.</p> <p>9 Q So what's your total approximate monthly</p> <p>10 income?</p> <p>11 A Oh. Um, I guess you can total, maybe 3K,</p> <p>12 yeah.</p> <p>13 Q So it's still about one-third of your</p> <p>14 prior income?</p> <p>15 A Yeah.</p> <p>16 Q Have your expenses decreased since you</p> <p>17 were providing services to Avatar Technologies?</p> <p>18 A Yeah. I don't have much expenses other</p> <p>19 than that stuff.</p> <p>20 Q Are these the same expenses generally that</p> <p>21 you had at that time?</p> <p>22 A They increased. But --</p> <p>23 Q What increased?</p> <p>24 A Credit cards, you know. I used them at</p> <p>25 times.</p> | <p style="text-align: right;">Page 161</p> <p>1 (A short break was taken.)</p> <p>2 THE VIDEOGRAPHER: We are now on the</p> <p>3 record. The time on the video monitor is 4:02</p> <p>4 P.M.</p> <p>5 MR. LURIE: Let's do this as Stewart 13.</p> <p>6 (Stewart Thirteen was marked for</p> <p>7 identification.)</p> <p>8 MR. CHEN: What number are we on?</p> <p>9 MR. LURIE: Thirteen.</p> <p>10 MR. CHEN: Thirteen.</p> <p>11 Q Mr. Stewart, I'm presenting to you what's</p> <p>12 been marked as Stewart 13 for identification</p> <p>13 purposes. Take a moment to look at this document.</p> <p>14 A Yep.</p> <p>15 Q Do you recognize this telephone number?</p> <p>16 A Oh, yeah.</p> <p>17 Q Whose telephone number is this?</p> <p>18 A Oh, I don't know exactly who. But it</p> <p>19 looks like --</p> <p>20 Q Do you have belief as to who this</p> <p>21 telephone numbers is attached to?</p> <p>22 A Maybe one of my family members.</p> <p>23 Q What family member?</p> <p>24 A A cousin of mine.</p> <p>25 Q Which cousin?</p> |

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| <p style="text-align: right;">Page 162</p> <p>1 A Starting to see that this 3-1-5 have to</p> <p>2 be, like, someone at that lives upstate.</p> <p>3 Q Upstate where?</p> <p>4 A New York County, Albany-ish.</p> <p>5 Q You have family up there?</p> <p>6 A Yeah.</p> <p>7 Q Do you have any belief as to who this is?</p> <p>8 A It's fuzzy. But let met see. Yeah. No,</p> <p>9 no. Not for sure.</p> <p>10 Q Seems like again, in approximately June of</p> <p>11 last year, you were seeking to have people -- strike</p> <p>12 that. Seems that in approximately June of last</p> <p>13 year, you were trying to have people invest in</p> <p>14 something with you; and in this case, you were</p> <p>15 promising 15 to 20 percent back as a recharge. Is</p> <p>16 that an accurate reading?</p> <p>17 A Yeah. Yeah.</p> <p>18 Q What investment is this?</p> <p>19 A To -- legal bills.</p> <p>20 Q So you're seeking people to invest in your</p> <p>21 lawsuits, promising them 15 to 20 percent?</p> <p>22 A Uh-huh.</p> <p>23 MR. LURIE: Let's do this as Stewart 14.</p> <p>24 (Stewart Fourteen was marked for</p> <p>25 identification.)</p> | <p style="text-align: right;">Page 164</p> <p>1 A So you're saying if there's legal -- if we</p> <p>2 speak legally and then I forward it to someone, it's</p> <p>3 no longer privileged?</p> <p>4 Q Correct.</p> <p>5 A Oh, great.</p> <p>6 Q So in this discussion, you are now -- is</p> <p>7 this the same telephone number and communication as</p> <p>8 with what was marked as Stewart 13?</p> <p>9 A Oh, yeah. Same number.</p> <p>10 Q So at some point you forwarded this</p> <p>11 individual a privileged conversation you were having</p> <p>12 with your attorney, correct?</p> <p>13 A Yeah.</p> <p>14 Q What was the purpose of forwarding this</p> <p>15 discussion to a third party?</p> <p>16 A As I'm looking at this, I don't know the</p> <p>17 person. Happy Father's Day -- what was your</p> <p>18 question?</p> <p>19 Q What was your purpose in forwarding this</p> <p>20 communication with your lawyer to a third party?</p> <p>21 A I'm looking at this. And by it saying</p> <p>22 happy Father's Day below, I'm just thinking this is</p> <p>23 my child. And I'm having a conversation and sent</p> <p>24 them something, but --</p> <p>25 Q I can represent to you that this wasn't</p> |
| <p style="text-align: right;">Page 163</p> <p>1 MR. LURIE: I told you, Jacob, I'm trying</p> <p>2 not to go down that route, but --</p> <p>3 MR. CHEN: Right.</p> <p>4 Q Mr. Stewart, now presenting you with a</p> <p>5 document that's been marked as Stewart 14 for</p> <p>6 identification purposes. I'd ask to you briefly</p> <p>7 take a look at this document as well.</p> <p>8 A Okay.</p> <p>9 Q Have you had an opportunity to review this</p> <p>10 document?</p> <p>11 A Yeah.</p> <p>12 Q You're aware that by forwarding</p> <p>13 communications with your attorney that they are no</p> <p>14 longer privileged, correct?</p> <p>15 A Okay.</p> <p>16 Q Are you aware of that?</p> <p>17 A No. I don't know that.</p> <p>18 Q If you would like your attorney to kind of</p> <p>19 give you go the explanation on that, I would give</p> <p>20 him the opportunity to do so because obviously some</p> <p>21 of these are what you were probably going to be</p> <p>22 privileged communications.</p> <p>23 A Oh.</p> <p>24 Q But by presenting them to someone else,</p> <p>25 there's no longer a privilege.</p> | <p style="text-align: right;">Page 165</p> <p>1 your child. And in fact, you joke about that</p> <p>2 afterwards.</p> <p>3 A Yeah. I don't understand because it says</p> <p>4 happy Father's Day below. But I'm not sure why you</p> <p>5 --</p> <p>6 Q But just focusing on this message at 16,</p> <p>7 17, 12:27 P.M. forwarding a discussion you were</p> <p>8 having with your lawyer to this person. What was</p> <p>9 the purpose in forwarding that discussion to them?</p> <p>10 A I believe this is when I was pro se, or --</p> <p>11 I don't -- and I don't know why I would forward this</p> <p>12 to -- I don't even know who this person is.</p> <p>13 Q Did you forward that same message to</p> <p>14 anyone else?</p> <p>15 A Not sure. Maybe I was looking for some</p> <p>16 advice or something. This is -- let's see, 13 --</p> <p>17 Oh, this is when I was seeking a loan.</p> <p>18 Q So you were forwarding privileged</p> <p>19 conversations with people for the purposes of</p> <p>20 inducing them to loan you money?</p> <p>21 A I have to say yes.</p> <p>22 Q Were you successful in obtaining money</p> <p>23 from anyone else besides Rauti and Stephanie Barima?</p> <p>24 A I don't think so.</p> <p>25 Q I'm going to apologize about this one.</p> |

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| <p style="text-align: right;">Page 166</p> <p>1 For whatever reason, it didn't print the third copy 2 so -- 3 MR. CHEN: I'll just -- 4 MR. LURIE: So this will be Stewart 15, 5 two pages. 6 (Stewart Fifteen was marked for 7 identification.) 8 MR. LURIE: I'm just focusing on his third 9 message on here, starting at the bottom and 10 then going on to the next page. 11 Q Mr. Stewart, I present you a document 12 marked as Stewart 15 for identification purposes. I 13 understand you're currently reading the document. 14 It's two pages, and I would ask you to let me know 15 when you have finished reading this document. 16 A Yes. Finished. 17 Q Both pages? 18 A Oh, second person. Okay. 19 Q This is another text message with your 20 daughter, correct? 21 A Yes. 22 Q And in here, you're being asked about 23 whether or not a credit card still works. Is that 24 correct? 25 A Yes.</p> | <p style="text-align: right;">Page 168</p> <p>1 confident in the FSLA case, which is noble. But 2 what happens if you lose? 3 A That's life. Keep going. 4 Q But you're seeking money to stay afloat, 5 correct? 6 A It is what it said. 7 Q But you're not struggling financially? 8 A I can't do some of the things I normally 9 do with her, you know, where she gets the credit 10 card and just spends because she's a 16 year old 11 child. I have to control spending. But it was a 12 strain to have these cases. 13 Q Do you talk to your daughter lot about 14 these cases? 15 A Yeah. 16 Q You had several discussions with her about 17 curbing her spending as a result of these cases? 18 A No, I'm not sure. 19 Q Do you recall having conversations with 20 her about taking it easy on you because of you are 21 struggling financially? 22 A You're asking me if I had that 23 conversation? 24 Q Do you recall having any conversation 25 about that?</p> |
| <p style="text-align: right;">Page 167</p> <p>1 Q And you're following up to ask her about 2 how much she spent on it, correct? 3 A Yes. 4 Q Looking at this -- by the way, this 5 document, these messages are dated June 16, 2017, 6 correct? 7 A Okay. 8 Q Is that correct? 9 A Yes. 10 Q Is that the same date as the message we 11 addressed in Stewart 14? 12 A Yes. 13 Q Now, at about 10:45 in the morning you 14 text your daughter, I wish but I have to file the 15 case and look to earn money to stay afloat until my 16 big paydays come. Some typos in there. And you 17 forward the same message from your attorney as we 18 discussed in Stewart 14. Is that correct? 19 A Uh-huh. Yes. It is. 20 Q What is this big payday coming? 21 A My FSLA case. 22 Q What happens if you don't get paid out on 23 the FSLA case? 24 A I'm not -- I don't think negatively. 25 Q This isn't negative. It's just, you are</p> | <p style="text-align: right;">Page 169</p> <p>1 A I don't know. We talk and laugh and joke, 2 so. 3 Q Do you recall chastising your daughter for 4 emptying out some type of savings account that she 5 had? Her rainy day fund? 6 A I'm not sure. I'm not sure. 7 Q Do you recall telling her that as a 8 result, you're not going to be able to put money 9 back into it? 10 A Produce, so I can just review it, if you 11 can refresh my memory. 12 Q I'm asking if you recall. 13 A No. I don't recall. 14 MR. LURIE: Stewart 16. 15 (Stewart Sixteen was marked for 16 identification.) 17 Q Mr. Stewart, now being presented with a 18 document that's been marked as Stewart 16 for 19 identification purposes. For the record, it's four 20 pages long, and it's Bates stamped 21 S-T-space-I-P-space-dash-0-1-4-3-5, through 1-4-3-8. 22 Please take a look. 23 A Okay. There are conversations between me 24 and my daughter. 25 Q Do you recall any of these conversations?</p> |

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| <p style="text-align: right;">Page 170</p> <p>1 A Let me just read it to see how it relates</p> <p>2 to Avatar --</p> <p>3 Q Mr. Stewart, I would ask you to keep your</p> <p>4 commentary aside unless you're going to be</p> <p>5 representing yourself as your own counsel by raising</p> <p>6 these issues of objection is entirely improper. I</p> <p>7 would ask your attorney to, if there is any</p> <p>8 objection, speak any objection.</p> <p>9 A Sorry. First and last. Okay.</p> <p>10 Conversation read.</p> <p>11 Q In this discussion, your daughter is</p> <p>12 asking you whether a credit cards work; and if not,</p> <p>13 if you can put, like, \$200. That's a message of</p> <p>14 July 3rd, '17 at 7:46 P.M. Is that an accurate</p> <p>15 reading?</p> <p>16 A Yes.</p> <p>17 Q And at 11:13 P.M., you respond, hey, here</p> <p>18 is an excellent question, how much money do you have</p> <p>19 in your birthday stash, question mark. These are</p> <p>20 emergency time, and I need to know these figures.</p> <p>21 You can get exponential returns investing in it.</p> <p>22 Are you -- strike that. What are you asking your</p> <p>23 daughter to invest in?</p> <p>24 A Maybe my cases, to give me her birthday</p> <p>25 money, maybe.</p> | <p style="text-align: right;">Page 172</p> <p>1 see that?</p> <p>2 A Mm-hmm.</p> <p>3 Q What other cases are there?</p> <p>4 A I had a few in the Philippines.</p> <p>5 Q How many in the Philippines?</p> <p>6 A I don't know. I think there were three</p> <p>7 total.</p> <p>8 Q Three cases in the Philippines?</p> <p>9 A That was created.</p> <p>10 Q What kind of cases are those in the</p> <p>11 Philippines?</p> <p>12 A I don't even know.</p> <p>13 Q Are you defending those cases in the</p> <p>14 Philippines?</p> <p>15 A They are sitting there waiting for things</p> <p>16 to happen.</p> <p>17 Q What things to happen?</p> <p>18 A Well --</p> <p>19 Q Let me make it this way. Are you the</p> <p>20 plaintiff or the defendant in those cases?</p> <p>21 A I am the defendant.</p> <p>22 Q In three cases in the Philippines?</p> <p>23 A At least three cases filed against me.</p> <p>24 Q Are they filed against you, personally?</p> <p>25 A Yes.</p> |
| <p style="text-align: right;">Page 171</p> <p>1 Q Mr. Stewart, what do you mean by emergency</p> <p>2 time? And I presume you mean emergency times.</p> <p>3 A I'm not sure what was happening then, but</p> <p>4 I might have needed cash, or I asked her to go into</p> <p>5 her birthday funds.</p> <p>6 Q Well, later on, on the second page Bates</p> <p>7 stamped 1436, your second message says, this is --</p> <p>8 I'm sorry. Your message on July 4th at 12:02 P.M.</p> <p>9 says -- I can't even do \$200 now, and the credit</p> <p>10 cards are maxed out. Mr. Stewart, were you having</p> <p>11 financial problems in July of last year?</p> <p>12 A I might have been. Most likely. July of</p> <p>13 2017.</p> <p>14 Q Once again, continuing through here,</p> <p>15 you're forwarding more of your conversations with</p> <p>16 your attorneys with respect to these companion</p> <p>17 cases, correct?</p> <p>18 A Yes.</p> <p>19 Q I'm going to pull you back briefly to look</p> <p>20 at Stewart 15 on the second page, Bates stamped</p> <p>21 1414. First line of the message that you forward</p> <p>22 before you copy and paste your message from your</p> <p>23 attorney, you write, just so you can imagine what</p> <p>24 I'm dealing with, comma, here's a conversation with</p> <p>25 my lawyer about case number four of four. Do you</p> | <p style="text-align: right;">Page 173</p> <p>1 Q Who are the plaintiffs?</p> <p>2 A Oscar Varuk.</p> <p>3 Q With regard to?</p> <p>4 A Similar things that Avatar exclaimed about</p> <p>5 finances and money missing and stuff like that. And</p> <p>6 threatening, and issues of that --</p> <p>7 Q What do you mean by threatening?</p> <p>8 A I believe in one of them. I was -- they</p> <p>9 said I called someone and threatened to blow up the</p> <p>10 building.</p> <p>11 Q You previously talked about for</p> <p>12 utilization of -- strike that. When were you in the</p> <p>13 Philippines again in 2015?</p> <p>14 A 2015, July. July to August.</p> <p>15 Q What about 2016?</p> <p>16 A February, to May.</p> <p>17 THE VIDEOGRAPHER: Mr. Chen, I think your</p> <p>18 microphone just dropped.</p> <p>19 MR. CHEN: Thank you. I'm not sure how</p> <p>20 much of my coughing you want on the --</p> <p>21 THE VIDEOGRAPHER: It's okay. Thank you.</p> <p>22 Q Did you post using your Kal El account</p> <p>23 indicating something using -- strike that. Do you</p> <p>24 know what a hash tag is?</p> <p>25 A Yes.</p> |

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| <p style="text-align: right;">Page 174</p> <p>1 Q What's a hash tag?</p> <p>2 A A trending statement or phrase.</p> <p>3 Q How would you -- how would one write out a</p> <p>4 hash tag?</p> <p>5 A Well, based on the official rules, I don't</p> <p>6 know. I would just say, hash tag, stop bullying, or</p> <p>7 something like that.</p> <p>8 Q When you say hash tag, is there a symbol</p> <p>9 that --</p> <p>10 A Pound sign.</p> <p>11 Q Pound sign. What's with the hash tag, one</p> <p>12 match can make a big explosion, mean?</p> <p>13 A That's from a song.</p> <p>14 Q What song?</p> <p>15 A Not sure of the artist. But it's a song</p> <p>16 -- I would have to look that up to -- a female</p> <p>17 artist.</p> <p>18 Q What do you think that term means?</p> <p>19 A What do I think it means? That I'm</p> <p>20 willing to fight the good fight.</p> <p>21 Q Who is Nico Tan?</p> <p>22 A Who I believe it is?</p> <p>23 Q You -- who, who -- strike that. Do you</p> <p>24 know somebody named Nico Tan?</p> <p>25 A Someone, no.</p> | <p style="text-align: right;">Page 176</p> <p>1 A Pretty sure I've called a lot of people,</p> <p>2 my man.</p> <p>3 Q Mean that, like, in a somewhat --</p> <p>4 A Like my boy.</p> <p>5 Q -- in a derogatory way?</p> <p>6 A No.</p> <p>7 Q So if you were posting something on</p> <p>8 Facebook, saying about, my man is doing something?</p> <p>9 Who would that be, that's upsetting you?</p> <p>10 A Depends on --</p> <p>11 Q Somebody is posting on -- strike that. If</p> <p>12 you were complaining about this case on Facebook,</p> <p>13 and you referred to my man, who would my man be?</p> <p>14 A Complaining about --</p> <p>15 Q This specific litigation.</p> <p>16 A Yeah. I don't think -- I would have to</p> <p>17 see the context of where you're getting this from.</p> <p>18 Q Issue --</p> <p>19 A It's very broad.</p> <p>20 Q Once again, I would ask your commentary to</p> <p>21 cease. And have your attorney can, if necessary --</p> <p>22 MR. CHEN: I think that was just a part of</p> <p>23 his answer to your question explaining why he's</p> <p>24 having difficulty answering.</p> <p>25 MR. LURIE: Thank you, Jacob. But --</p> |
| <p style="text-align: right;">Page 175</p> <p>1 Q Who do you believe is -- strike that.</p> <p>2 Have you ever heard the name Nico Tan?</p> <p>3 A Yes.</p> <p>4 Q Where have you heard the name Nico Tan?</p> <p>5 A Facebook. Facebook friend request to me</p> <p>6 and a couple of other ex-Avatar employees.</p> <p>7 Q Who do you believe is Nico Tan?</p> <p>8 A Oscar Varuk.</p> <p>9 Q Had a bunch of nicknames when you were</p> <p>10 providing services to my clients, correct?</p> <p>11 A Huh?</p> <p>12 Q You guys used a bunch of nicknames when</p> <p>13 you were providing services to my clients, correct?</p> <p>14 A Yes.</p> <p>15 Q You went by the name David Rose?</p> <p>16 A Yes. David S. Rose.</p> <p>17 Q David S. Rose?</p> <p>18 A Stewart Rose. Rose was a family name I</p> <p>19 heard of, so I used it.</p> <p>20 Q And did George Kaltner have a nickname?</p> <p>21 A George Van Kaltner, and -- I'm not sure.</p> <p>22 Other ones.</p> <p>23 Q Did Oscar have a nickname?</p> <p>24 A Oscar. Yeah. Oscar Reed.</p> <p>25 Q Did you ever refer to Oscar as, my man?</p> | <p style="text-align: right;">Page 177</p> <p>1 THE WITNESS: Yeah.</p> <p>2 MR. LURIE: Let's try to keep it to the</p> <p>3 questions. Who is Michael C, capital C, in</p> <p>4 quotes?</p> <p>5 A Fictitious name.</p> <p>6 Q Who is Michael Ceeya?</p> <p>7 A Avatar employee.</p> <p>8 Q Familiar with him?</p> <p>9 A Oh, of course.</p> <p>10 Q Friends with him?</p> <p>11 A Well, that's what I thought.</p> <p>12 Q Were you asking Michael C. to provide you</p> <p>13 with internal documents from Avatar?</p> <p>14 A No. I don't need internal documents from</p> <p>15 Avatar.</p> <p>16 Q You never reached out to him to provide</p> <p>17 you with anything?</p> <p>18 A I never needed it.</p> <p>19 Q Didn't ask if you needed it. Did you ever</p> <p>20 ask him for any documents?</p> <p>21 A Most likely blowing smoke into Oscar's</p> <p>22 right-hand man's ear because he's one of the spies,</p> <p>23 so.</p> <p>24 Q Lot of spies, right?</p> <p>25 A Oh, yeah.</p> |

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| <p style="text-align: right;">Page 178</p> <p>1 Q Why are there so many spies against you?</p> <p>2 A No. Not against me. It's the paranoia of</p> <p>3 the company.</p> <p>4 Q Well, you just mentioned, there was a</p> <p>5 couple of spies.</p> <p>6 A Oh, yeah. So far.</p> <p>7 Q Why are people spying on you?</p> <p>8 A Not on me. They report the information to</p> <p>9 --</p> <p>10 Q This woman who we referenced a little bit</p> <p>11 earlier -- let's pull up this document. Talked</p> <p>12 about her before.</p> <p>13 A Marby Cordero.</p> <p>14 Q Marby Cordero. You referenced her as a</p> <p>15 spy?</p> <p>16 A Yeah. That's her job.</p> <p>17 Q Her job was to be a spy?</p> <p>18 A Yeah.</p> <p>19 Q Why is she reaching out you?</p> <p>20 A To get information to bring back to the</p> <p>21 people that hired her. Or not even at the time, she</p> <p>22 was not even hired by them. When she spoke to me</p> <p>23 there, she wasn't an employee.</p> <p>24 Q Why would Michael Ceeya want to spy on</p> <p>25 you?</p> | <p style="text-align: right;">Page 180</p> <p>1 Q A 137 pages. Stewart 17.</p> <p>2 (Stewart Seventeen was marked for</p> <p>3 identification.)</p> <p>4 MR. LURIE: Looking for the other copy of</p> <p>5 this, so bare with me. I thought I had an</p> <p>6 extra copy of this. If you have the documents</p> <p>7 accessible on your system there, this is in</p> <p>8 group 17 of the text messages, Bates stamped --</p> <p>9 going to be referring by Bates stamp numbers,</p> <p>10 as well. If you want, I can pull this back up</p> <p>11 and email you as well. Probably actually will</p> <p>12 be easier for you to have it on the computer</p> <p>13 screen than it is going through paper.</p> <p>14 MR. CHEN: Which --</p> <p>15 MR. LURIE: It's in the -- well, I mean</p> <p>16 did I send it to you in just the complete</p> <p>17 document?</p> <p>18 MR. CHEN: I have it in front of me. What</p> <p>19 numbers?</p> <p>20 MR. LURIE: 3-5-3-6.</p> <p>21 MR. CHEN: 3-5-3-6.</p> <p>22 MR. LURIE: Three six. And it actually</p> <p>23 should go to approximately the end of it. I</p> <p>24 think there were only two pages at the end</p> <p>25 after pages 3,5 -- I'm sorry. 3-6-7-3.</p> |
| <p style="text-align: right;">Page 179</p> <p>1 A You would have to ask Oscar that.</p> <p>2 Q Who else is spying on you?</p> <p>3 A I didn't say spying on me. They're the</p> <p>4 spies of the company.</p> <p>5 Q And they're reaching out to you?</p> <p>6 A Yeah. Why are they reaching out to me?</p> <p>7 Q Yeah. Why are they reaching out to you?</p> <p>8 A Because they're ordered to from their</p> <p>9 leader.</p> <p>10 Q Why do you think they are reaching out to</p> <p>11 you?</p> <p>12 A Why?</p> <p>13 Q Yes. Why do you think they're reaching</p> <p>14 out to you?</p> <p>15 A Because Oscar has a strong dislike for me.</p> <p>16 Q You start providing service for them in</p> <p>17 April of 2015, correct?</p> <p>18 A I stopped, yes.</p> <p>19 Q Couldn't you just have gone on your way</p> <p>20 and let bygones be bygones?</p> <p>21 A That's what I did.</p> <p>22 Q You did not try reach out to anyone in the</p> <p>23 business to get you things, internal documents, or</p> <p>24 --</p> <p>25 A I did not need any internal documents.</p> | <p style="text-align: right;">Page 181</p> <p>1 MR. CHEN: So 3-5-3-6 to --</p> <p>2 MR. LURIE: Yes. To 3-6.</p> <p>3 MR. CHEN: 3-6 --</p> <p>4 MR. LURIE: -- 7-3. Do you have that in</p> <p>5 front of you, Jacob?</p> <p>6 MR. CHEN: I have it.</p> <p>7 MR. LURIE: Okay. I'll be jealous you have</p> <p>8 it on the computer screen.</p> <p>9 Q Mr. Stewart, presented before you is a</p> <p>10 document, which has been marked as -- I lost --</p> <p>11 Stewart 17 for identification purposes. It's a 137</p> <p>12 page document Bates stamps beginning at 3536 and</p> <p>13 ending at 3673. Obviously, this is a sizable</p> <p>14 document. And rather than having you read through</p> <p>15 the whole thing --</p> <p>16 MR. CHEN: Can I unplug this? Just go</p> <p>17 quickly off the record.</p> <p>18 THE VIDEOGRAPHER: Go off the record?</p> <p>19 MR. CHEN: Yeah.</p> <p>20 THE VIDEOGRAPHER: We are now off the</p> <p>21 record. The time on the video monitor is 4:40</p> <p>22 P.M.</p> <p>23 (A short break was taken.)</p> <p>24 THE VIDEOGRAPHER: We are now on the</p> <p>25 record, the time on the video monitor is 4:44</p> |

46 (Pages 178 - 181)

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| <p style="text-align: right;">Page 182</p> <p>1 P.M.</p> <p>2 Q Mr. Stewart, before you right now is a</p> <p>3 document marked as Stewart 17 for identification</p> <p>4 purposes. As we indicated before, it is a 137 pages</p> <p>5 long. Now, before we start going through this</p> <p>6 document, have you reviewed your text messages</p> <p>7 before this deposition today?</p> <p>8 A Not really.</p> <p>9 Q Were you aware that we would be looking</p> <p>10 through your text messages?</p> <p>11 A Yeah.</p> <p>12 Q And so -- strike that.</p> <p>13 A Yes.</p> <p>14 Q Are you an individual who keeps text</p> <p>15 messages or deletes text messages?</p> <p>16 A I just -- it's there. Sometimes when I</p> <p>17 see device almost full or whatever.</p> <p>18 Q So it's normal practice you just retain</p> <p>19 all of your --</p> <p>20 A Yeah. I never pay attention to it.</p> <p>21 Q Do you know -- strike that. Do you</p> <p>22 recognize the telephone number on this</p> <p>23 X-XXX-XXX-XXXX?</p> <p>24 A No. I don't recognize telephone numbers.</p> <p>25 Q Do you know who this is a communication</p> | <p style="text-align: right;">Page 184</p> <p>1 A That was offered to me.</p> <p>2 Q Who offered it to you?</p> <p>3 A George.</p> <p>4 Q How much was offered?</p> <p>5 A Full salary for the next six months.</p> <p>6 Q Was it \$14,000?</p> <p>7 A That's the amount they sent through.</p> <p>8 Q We talk about that in here, about \$14,000.</p> <p>9 Is that correct?</p> <p>10 A Yeah. That's the --</p> <p>11 Q You were intending to receive \$14,000?</p> <p>12 A That's what I received, but --</p> <p>13 Q Let me just ask you once again. We</p> <p>14 briefly touched on this, but, Ms. Veneesula, what</p> <p>15 was her position with Avatar Technologies, Sales</p> <p>16 Technologies, whatever it may be?</p> <p>17 A She was -- she managed payroll. She did</p> <p>18 some accounts payable. She backs me up if I'm not</p> <p>19 available. What else she does?</p> <p>20 Q Let me ask you this. Do you know how she</p> <p>21 came to be employed by Avatar technologies?</p> <p>22 A Yes.</p> <p>23 Q How did she become employed?</p> <p>24 A I introduced her to George.</p> <p>25 Q You knew her previously?</p> |
| <p style="text-align: right;">Page 183</p> <p>1 with?</p> <p>2 A I would assume this is Ms. Velez.</p> <p>3 Q And by that we are talking about Stephanie</p> <p>4 Valdez, also known as Edevict Veneesula?</p> <p>5 A Yes.</p> <p>6 Q Do you recall having conversations with</p> <p>7 her --</p> <p>8 A Yes.</p> <p>9 Q -- going back -- finish the question.</p> <p>10 Going as far as back as May 8 of 2015?</p> <p>11 A Yes.</p> <p>12 Q Okay. May of 2015, this is a short time</p> <p>13 after you ceased providing services for my clients,</p> <p>14 correct?</p> <p>15 A Yes, it is.</p> <p>16 Q But you had some money that you were still</p> <p>17 due under an agreement with them, correct?</p> <p>18 A Yes.</p> <p>19 Q How much money were you due as a</p> <p>20 additional amount of money paid out after April of</p> <p>21 2015?</p> <p>22 A Due as in the sense of --</p> <p>23 Q Did you make an agreement to receive</p> <p>24 additional money after you ceased providing</p> <p>25 services?</p> | <p style="text-align: right;">Page 185</p> <p>1 A Yes.</p> <p>2 Q How --</p> <p>3 A We went to school together.</p> <p>4 Q Where did you go to school together?</p> <p>5 A Monroe School.</p> <p>6 Q When you would return to receive your</p> <p>7 bachelor's degree?</p> <p>8 A Yes.</p> <p>9 Q And -- strike that. You introduced her to</p> <p>10 Mr. Kaltner?</p> <p>11 A Yes.</p> <p>12 Q Why did you introduce her to Mr. Kaltner?</p> <p>13 A What was happening? I think I needed help</p> <p>14 with doing the billing and all of the service</p> <p>15 tickets for both companies. So, Breeya was helping</p> <p>16 me at first, but she wasn't, you know, the right</p> <p>17 fit. And then George took her on as his personal</p> <p>18 secretary, so --</p> <p>19 Q So Breeya was the personal assistant?</p> <p>20 A Yeah. Did a lot of work for him and,</p> <p>21 yeah, baby sitting and stuff.</p> <p>22 Q And so you needed help with your services</p> <p>23 that you were providing, correct?</p> <p>24 A I needed help with the work that was --</p> <p>25 that I had to do.</p> |

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| <p style="text-align: right;">Page 186</p> <p>1 Q And did you ask Mr. Kaltner if you could 2 bring someone in to assist you? 3 A What did I do? I don't remember what 4 happened. I think it was towards the first of the 5 year. And they were hiring new staff. 6 Q First of what year? 7 A I think it was the beginning of the year 8 when they were -- you know, they were looking to 9 expand because things were getting bigger with the 10 company. 11 Q Which year? 2013? '14? 12 A I think 2000 -- I'm not sure. I just know 13 I brought her in because I knew her; and I new she 14 was in accounting, and she would be able to most of 15 the stuff that I couldn't do. So I invited her to 16 the company. 17 Q What was -- you stated she was in 18 accounting. Do you know what her prior position was 19 before being hired? 20 A No. 21 Q What made you believe that she was in 22 accounting? 23 A Oh, she took accounting in college. I 24 think that was on her resume when she submitted it. 25 Pretty sure it was.</p> | <p style="text-align: right;">Page 188</p> <p>1 message. 2 MR. CHEN: Are you going doing through all 3 of these documents? 4 MR. LURIE: No. I'm going to go give you 5 the page number as I'm addressing them to make 6 life easier, and it's going to take way too 7 long and there's a lot of -- obviously we don't 8 care about them discussing having dinner. 9 MR. CHEN: I do recall this was an issue 10 on the Kaltner deposition, but I'll go over 11 these pages as you list them out. Then I'll 12 review the page and we can ask questions about 13 -- 14 MR. LURIE: Makes things a little bit 15 easier that way. 16 Q Going to flip now, the next page 3537, May 17 8, 2015 at 7:37 A.M. For ease, we'll call her, I 18 believe everyone referred to her as Steph or 19 Stephanie. 20 A Ms. Velez. 21 Q Writes to you and said, make sure if you 22 have the statements, or which ones do you need so I 23 can get them to you -- you with just the letter U -- 24 we basically have four days to get anything. I'm 25 assuming you'll have Max hijack all of my stuff as</p> |
| <p style="text-align: right;">Page 187</p> <p>1 Q Did you recommend her? 2 A In capacity, yes. Said she should be an 3 asset to the company. 4 Q Did work alongside her? 5 A Yes. 6 Q Did you train her? 7 A I showed her basically all the things I 8 knew. 9 Q So you trained her to do the work you were 10 providing? 11 A Well, some of the work that she did, I 12 trained her with. 13 Q Did she report to you? 14 A No. 15 Q On the second text message that you 16 received from her on May 8th of 2015, on Bates stamp 17 3536? 18 A Yeah. 19 Q She writes you and said, I thought you 20 took all of those statements. Do you know what she 21 is referring to? 22 A I'm not sure. 23 MR. CHEN: Sorry. Which page? 24 THE WITNESS: The first page. 25 MR. LURIE: 3536. First page, second</p> | <p style="text-align: right;">Page 189</p> <p>1 soon as I tell him I'm leaving. 2 MR. CHEN: Just a correction, four days 3 only to get everything. 4 MR. LURIE: Only to get anything. 5 Q What statements is she referring to? 6 A Yeah, I don't know what statements she 7 needed or, you know, I needed that she would -- four 8 days. 9 Q Why would there be documents that she 10 would have access to that are statements that you 11 need? 12 A I don't know. Payroll. That's the only 13 thing that she did that I wouldn't be able to have. 14 Q When you say -- so you wanted the 15 company's payroll? 16 A No. I don't know what it is. I'm saying 17 that's the only function that I never touched that 18 she would have something that I would need -- you 19 know, statements. 20 Q Now, to the next page 3538 going down a 21 little bit further. This is a discussion on same 22 date. Now at specifically looking at the message of 23 11:40 -- 24 A Uh-huh. 25 Q A.M. at 45 -- 11:40:45. She writes to you</p> |

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| <p style="text-align: right;">Page 190</p> <p>1 and says, are you serious, question mark, dot, dot, 2 dot, you -- just the letter you -- want to go 3 through the laptop now, period. He is going to say 4 it's company equipment just as he did with the 5 phone. Next message: I'm guessing it's all part of 6 the new plan. Next message: So I'll just -- 7 J-I-S-T -- follow through, T-H-R-U. What is the new 8 plan that she's referencing? 9 A I don't know about that. But I know the 10 context of this. 11 Q What's the context? 12 A I was trying to purchase the MacBook Air 13 so I could send it to the Philippines. 14 Q Why did you want to send a MacBook Air to 15 the Philippines? 16 A To my girlfriend. 17 Q You had a girlfriend in the Philippines as 18 well? 19 A Yes. 20 Q Okay. So, do you have any idea what the 21 plan is that you're -- that's being referenced? Or 22 do you believe it's just sending a laptop to -- 23 A Yeah. I guess it's part of the plan. And 24 I'm not sure what that is. 25 Q Flipping to the next page, 3539 message</p> | <p style="text-align: right;">Page 192</p> <p>1 A That's up to her. 2 Q Do you know whether or not she deleted 3 these messages? 4 A No. I don't know. 5 Q Flip to the next page. There's a 6 discussion starting in the middle of the page, May 7 11th, 2015. 7:34 A.M. 8 A Mm-hmm. 9 Q Once again, why are you talking with her 10 at such early periods of time? 11 A I don't know. She's up. 12 Q So, this one you're talking about a raise 13 proposal for Agrain? 14 A Agrain. 15 Q She's taking 35,000 thousand a month. But 16 I don't know if it'll look outrageous, she's at 17 25,000 now. And you respond back saying, propose 18 it, let them say no, and reduce it to 30,000. We're 19 talking about pesos, correct? 20 A Yes. 21 Q Do you know what the equivalent is between 22 the exchanging rate between the dollar and the 23 Philippine peso is? 24 A Fifty to one, I guess. 25 Q So, you said that you didn't have any</p> |
| <p style="text-align: right;">Page 191</p> <p>1 dated May 9th, 2015, 6:33 A.M. 24. And I'll go 2 through this, each one. First message says, delete 3 all the messages between and you I on your corporate 4 phone. Next message comes in and just says two. 5 Why are you telling her to delete all the messages 6 between the two of you on the corporate phone? 7 A The conversation we had about the laptop 8 and stuff. 9 Q Why would you want to have that deleted 10 off the corporate phone? 11 A So that she shouldn't be talking to me, I 12 guess. 13 Q Well, this is you saying so. Not her. 14 A Oh. Yeah. I would tell her to delete it. 15 Obviously I didn't delete it. 16 Q Why were you telling her to delete it 17 then? 18 A Because, in Avatar, whenever someone is 19 terminated, you couldn't speak to them. You're not 20 supposed to have any communication with them. It's 21 what they say. 22 Q You continued to communicate with her 23 afterwards? 24 A Oh, yeah. 25 Q She continued to communicate with you?</p> | <p style="text-align: right;">Page 193</p> <p>1 involvement with payroll, correct? 2 A Yeah. 3 Q So why are you, after no longer providing 4 services for Avatar, or Sales Technologies, or 5 whatever business, you're having discussions with 6 her regarding someone's pay? 7 A That's payroll left the Philippines. 8 Q So you were involved with payroll in the 9 Philippines? 10 A No. That's her salary -- I suggested -- 11 she wanted to -- since I'm not there any longer 12 Agrain has more responsibilities. So they were 13 going to, you know -- she asked me for my suggestion 14 of what should she get paid, hey, give her 35k. 15 Q Why did you weigh in at all? You just 16 said that you wanted to walk away and not have any 17 -- 18 A It's a friend of mine, Agrain. I put her 19 and Ben together. 20 Q There's a discussion, now looking at page 21 3543. Sent a message -- 22 MR. CHEN: Let me take a moment to review 23 it. Okay. 24 Q Sent a message on May 13, 2015 at 7 25 o'clock in the morning, 7:03, asking, stating, also</p> |

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| <p style="text-align: right;">Page 194</p> <p>1 that 5K should be sent tomorrow, comma, right? I 2 got to pay lawyers fees, lawyer fees L-O-L. She 3 responds back, looking a little bit further down, 4 5-13-2015, 7:17 A.M. She states, they are 5 interviewing controllers tomorrow, so the accountant 6 Ken will be there. Further down she says, I'll try 7 to 5K, but it's 4k, actually. So. I'll ask you a 8 couple questions about that. 9 A Mm-hmm. 10 Q Why would she be telling you about 11 interviewing controllers and accountants and that 12 Ken will be there? 13 A Just friendly updates. 14 Q Who's Ken? 15 A CFO. 16 Q Why did you care what's going on at Avatar 17 when you wanted to just walk away? 18 A Fun gossip and stuff. It was not -- you 19 know. 20 Q Going further down, she says, she responds 21 back, I'll try 5K; but it's 4K, actually. So were 22 you supposed to receive \$4,000 or \$5,000? 23 A A lot of was supposed to be much more than 24 that, but it is what it is. 25 Q Well, you don't respond back and say,</p> | <p style="text-align: right;">Page 196</p> <p>1 the guy just gave a one-day tutorial back in 2011. 2 Response -- I'll give it shortened. I know you 3 created it all. 4 What billing processes did you create? 5 A Well, when the Fresh Books system was 6 handed to me, with the air time billing, George, 7 showed me one weekend, two weekends, and that was 8 it. So I would do the Excel sheet. Of course, I 9 like the Excel. And I would copy and paste all of 10 the items in there and show them how to bill from 11 it. So that's where I pass it to Breeya, Breeya 12 passed it to Stephanie, and then Stephanie passed it 13 to Agrain. 14 Q So basically you're saying that the 15 billing processes that are utilized at Avatar 16 Technologies are your creation? 17 A Yeah. They -- yes. 18 Q Jump forward to page 3548. 19 MR. CHEN: Four -- 20 MR. LURIE: Eight. 21 Q Have you had an opportunity to read 22 through this? 23 A Oh, yeah. 24 Q Now, May 18, 2015, starting with the time 25 stamp 6:36:35 A.M. Next time he asked -- asks you</p> |
| <p style="text-align: right;">Page 195</p> <p>1 supposed to be a lot more than that, right? 2 A Huh? 3 Q You don't respond back at any point and 4 say, it's supposed to be a lot more than that, 5 where's my six months? 6 MR. CHEN: Sorry. The negatives -- what's 7 your questioning again? If you could frame -- 8 can you phrase it in a nonnegative way? 9 MR. LURIE: If this an objection to the 10 form of the question -- 11 MR. CHEN: Yes. 12 MR. LURIE: -- I'll restate my question. 13 Q Did you at any time respond to her saying, 14 it's not supposed to be 4,000, it's supposed to be 15 six months salary, which would be 47 -- almost 16 \$47,000, \$46,000? 17 A I addressed that later on, not in this 18 context, but directly to George. 19 Q Take a look at the next page 3544, going 20 down a little bit below, half way through the page, 21 time stamped 7:34:11. Did you have an opportunity 22 to read that? 23 A Yeah. 24 Q Mr. Stewart, you write, do you know every 25 process and bill is completely from me? Next text,</p> | <p style="text-align: right;">Page 197</p> <p>1 about me, you with just the letter U, period, states 2 that I learned some things about Avatar; and I'm 3 super pissed off. Next message, 6:44:27 A.M. For 4 one, comma, Oscar is a convicted criminal. And 5 there's a link. Next line, 6:44:55, theft by 6 deception. Next line 6:57:15, if George ask, tell 7 him I sent it to you. Next line, 6:57:32, I'll 8 sent, with a T, it to the other phone. 9 Mr. Stewart, I thought you said you were 10 wanting to just walk away and not be dealing with 11 any drama, any issues with Avatar? 12 A Yeah. But I didn't have an issue with 13 George. As you could see, I told you to send it to 14 George. The issue here seems like it's with Oscar. 15 Q Why are you researching Oscar? 16 A The guy has a serious dislike for me from 17 my time in the Philippines. 18 Q Do you have a serious dislike for him as 19 well? 20 A I don't have dislike for anyone. 21 Q Why are you researching the guy? 22 A Because he has a strong dislike for me, 23 and I can prove it in the writings and names that I 24 was called by him. 25 Q So you're dealing with someone who's a</p> |

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| <p style="text-align: right;">Page 198</p> <p>1 jerk, right?</p> <p>2 A Uh-huh.</p> <p>3 Q He doesn't appear to like you.</p> <p>4 A No.</p> <p>5 Q You're not working alongside him anymore,</p> <p>6 right?</p> <p>7 A Nope.</p> <p>8 Q You're not working with him, correct?</p> <p>9 A No.</p> <p>10 Q You're having no communications with this</p> <p>11 person?</p> <p>12 A Nope.</p> <p>13 Q Can't you just say, man, that guy's a</p> <p>14 jerk, I'm so glad to never have to deal with him</p> <p>15 again?</p> <p>16 A What did I do? I posted something to her.</p> <p>17 I don't see --</p> <p>18 Q My question is, why are you bothering to</p> <p>19 continue looking this guy up?</p> <p>20 A I am giving it to George, so he's aware of</p> <p>21 his employee and, you know, the status.</p> <p>22 Q Mr. Stewart --</p> <p>23 A For the record, he was the guy that they</p> <p>24 thought was stealing money when I first got to the</p> <p>25 Philippines. You know -- just.</p> | <p style="text-align: right;">Page 200</p> <p>1 through everything.</p> <p>2 Q Let me know when you've turned to that</p> <p>3 page, Mr. Stewart.</p> <p>4 A Yep.</p> <p>5 Q The third message down that you've sent,</p> <p>6 you sent a message on August 10th, 2015 at 12:20</p> <p>7 P.M.?</p> <p>8 A Yep.</p> <p>9 Q Writing, it's on with me and George. Next</p> <p>10 message that you send is October 11th, 2016 a little</p> <p>11 bit more than 14 months later.</p> <p>12 A Mm-hmm.</p> <p>13 Q Were you still in communication with</p> <p>14 Stephanie during that period of time?</p> <p>15 A I'm not sure.</p> <p>16 Q Did you have a falling out with her?</p> <p>17 A Not that I -- I'm not sure about why she</p> <p>18 -- wow, that's a gap.</p> <p>19 Q Just had about a 14-month period you just</p> <p>20 stopped talking to her?</p> <p>21 A Well --</p> <p>22 Q Is that accurate?</p> <p>23 A Yeah. It's -- I guess she didn't want to</p> <p>24 hear about George because that's the last message I</p> <p>25 see here.</p> |
| <p style="text-align: right;">Page 199</p> <p>1 Q Mr. Stewart, did you expect to be able to</p> <p>2 return to working or providing services to George</p> <p>3 Kaltner after you were released in April of 2015?</p> <p>4 A No.</p> <p>5 Q You never expected to ever go back?</p> <p>6 A No.</p> <p>7 Q Did you ever want to go back?</p> <p>8 A Oh, I'd love to.</p> <p>9 Q You didn't think that things would just,</p> <p>10 whatever was the result of this dispute, would just</p> <p>11 kind of boil over and you'd be welcome back as so</p> <p>12 many other times?</p> <p>13 MR. CHEN: What time frame?</p> <p>14 MR. LURIE: Asking in general. It's a</p> <p>15 general question.</p> <p>16 A Oscar did send me a message one day</p> <p>17 welcoming me back. But of course I know that was a</p> <p>18 trap or something, some set up, because. I wish I</p> <p>19 had those communications to show you guys.</p> <p>20 Q Mr. Stewart, I'd ask you to take a look</p> <p>21 now at page 3555.</p> <p>22 MR. CHEN: I'm going to take a quick</p> <p>23 second to look at that.</p> <p>24 MR. LURIE: Very, very, simple what I'm</p> <p>25 going to ask; so I wouldn't bother reading</p> | <p style="text-align: right;">Page 201</p> <p>1 Q Why are you still talking about George in</p> <p>2 now, August of 2015?</p> <p>3 A Why?</p> <p>4 Q Right.</p> <p>5 A Because that's when I returned from the</p> <p>6 Philippines.</p> <p>7 Q So where why are you talking about George?</p> <p>8 A Because they sent me a letter to my hotel</p> <p>9 after finding out where I was, and so that was</p> <p>10 upsetting that they would follow me and serve me a</p> <p>11 letter.</p> <p>12 Q Well, let me make sure that I understand.</p> <p>13 When you were in the Philippines during that time,</p> <p>14 you were opening up a competing call center,</p> <p>15 correct?</p> <p>16 A 2015, no. I went on vacation in July</p> <p>17 2015, to August 3rd.</p> <p>18 Q August 3rd of 2015?</p> <p>19 A Yep. I mean --</p> <p>20 Q Drawing your attention to 3564.</p> <p>21 A Okay. Read it.</p> <p>22 Q Draw your attention a little bit further</p> <p>23 down, looking at January 3rd, 2017, now at 8:53 A.M.</p> <p>24 You respond back to a message from Stephanie saying,</p> <p>25 heading to court. She responds back, really? And</p> |

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| <p style="text-align: right;">Page 202</p> <p>1 you respond back -- try and quote this as much as 2 possible and correct the typos in here. George is 3 such a dumb, D-I-C, comma, suing me for Avatar 4 Dialler, two L's, dot com. He thinks I own that 5 company and I'm arrival, A-R-R-I-V-A-L, to Avatar 6 Technologies. He's a fucking idiot and wasting my 7 fucking time, so I'm speaking to lawyers to 8 countersue and try to get \$250,000 out of him. 9 Mr. Stewart, before getting into this with 10 your references were you not sending messages to 11 people saying, come contact me at Avatardialler.com? 12 A I said that I spoke -- I had a 13 conversation once with an ex-employee. And from 14 there, you guys decided to bring an entire case. 15 Q You previously said, you're not familiar 16 with trademarks, correct? 17 A Not familiar, yeah. 18 Q You don't know what a trademark is? 19 A To the sense -- you know, unless the 20 company owns it, and -- 21 Q Were you still providing -- strike that. 22 You were still providing services for Avatar at the 23 time it was applying for its trademark, correct? 24 A I guess so. I'm not sure when they got 25 their trademark services and stuff.</p> | <p style="text-align: right;">Page 204</p> <p>1 MR. CHEN: Is there a pending question? 2 MR. LURIE: The pending question was, 3 whether or not you think -- 4 MR. CHEN: What would Citibank do if you 5 held -- 6 MR. LURIE: Yeah. If you held yourself -- 7 if you were to go out there -- I'll just do 8 this quickly so we can take a bathroom break. 9 Do you believe that -- you don't think that 10 Citibank, if you had done that, would send you 11 a letter saying, give me all of your money? 12 A I seriously doubt it. Not without some 13 kind of a process. 14 MR. LURIE: Go off the record. 15 THE VIDEOGRAPHER: Okay. We are now off 16 the record. The time object on the video 17 monitor is 5:18 P.M. 18 (A short break was taken.) 19 THE VIDEOGRAPHER: We are now on the 20 record. The time on the video monitor is 5:28 21 P.M. 22 Q Mr. Stewart, continuing along on this same 23 document, I'm going to ask you to turn to page 3565. 24 Starting with your second message down, you say, he 25 has zero evidence and of course I have all the</p> |
| <p style="text-align: right;">Page 203</p> <p>1 Q Do you know what Avatar has a trademark 2 in? 3 A No. 4 Q Are you -- you have no -- strike that. Do 5 you believe that you can go out and put up a sign 6 that says, I am Citi Gas, C-I-T-I, knowing that's 7 Citibank's logo? Can you do that? 8 A No. I'm not sure. 9 Q What do you think would happen if you did 10 that? 11 A I don't know. 12 Q You might get a letter from Citibank 13 saying, why are you using our name and logo? 14 A I don't remember getting a letter from 15 Avatar to say why I used that email address. 16 Q Do you believe that you would get 17 something saying, something from a lawyer -- Mr. 18 Stewart, are utilizing your cell phone at this time? 19 A No. 20 Q I see your hands down there, and you're 21 fidgeting. 22 A Oh, no. 23 Q I just want to make sure. 24 A Oh, no. I was shaking. Sorry. I think I 25 need a bathroom break soon.</p> | <p style="text-align: right;">Page 205</p> <p>1 evidence. What is all the evidence? 2 A I have zero evidence. 3 MR. CHEN: Are you asking him what he 4 meant by, I have all the evidence? Or are you 5 asking him what is all the evidence? 6 Q Let's do it in two parts. I think that's 7 a good way to do this. What did you mean by all the 8 evidence? 9 A Yeah, like, there's no, evidence. You 10 know, I Googled the info so I know of the company. 11 But I have nothing to do with the company. 12 Q Have you ever heard of a term called 13 passing off? 14 A No. 15 Q Your next line -- let me go back. So what 16 is all of the evidence that you're referencing here? 17 Can you identify what that is? 18 A Let me just read the next statement. Oh, 19 I have all the evidence for my case to win, and when 20 one finishes, to pay for the other. 21 Q Mr. Stewart, you previously just stated 22 you don't know what passing off is, correct? 23 A I didn't read the -- I didn't read the 24 second line. 25 Q Once again, Mr. Stewart, you don't</p> |

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| <p style="text-align: right;">Page 206</p> <p>1 understand what the concept of trademark laws 2 regarding passing off is, correct? 3 A No, I don't. 4 Q When you were served with this complaint, 5 you originally put in your appearance on your pro 6 se, correct? 7 A Yes. 8 Q Did you research the allegations in the 9 complaint against you? 10 A Not much. I consulted with the pro se 11 lawyers down at 57-500 Center Street. 12 Q So you went down to the pro se office, the 13 New York Bar Association pro se office -- 14 A Yeah. 15 Q -- and asked them for advice? 16 A Mm-hmm. 17 Q Don't want to know anything that you 18 asked, or I don't want to know what they told you. 19 Of course Jacob and I probably have some thoughts on 20 what the results were. But, did you take any 21 efforts at that time to try to learn personally what 22 the allegations in the complaint were, with respect 23 to Avatar Dialler and you? 24 A Did I -- did I take time to learn about 25 it?</p> | <p style="text-align: right;">Page 208</p> <p>1 A I really don't even know. But I put this, 2 my real moves -- yeah. It's just a conversation 3 with a person. So, I don't know. 4 Q Flipping to the next page, receive a 5 response, uhm, U-H-M, and you respond back, I need 6 them to settle. I don't want this case to be 7 dragged out; so it's attracting attention so all the 8 ex-employees will be inclined to testify on my 9 behalf. 10 A Yeah. 11 Q What does that mean? 12 A I would say for the ex-employees to 13 support me in proving my case. 14 Q Which case? 15 A I'm not sure which case was happening at 16 this time. 17 Q This one seems like you're discussing -- 18 strike that. Going further down on this page, time 19 stamped 2:58:34. They'll get subpoenas. Who will 20 get subpoenas? 21 A I have no idea what this is in reference 22 to, the subpoena. 23 Q Going to the next page, Bates stamped 24 3568, starting with the time stamp now, 3:12:09 P.M. 25 They can't win against me. Remember that I prepared</p> |
| <p style="text-align: right;">Page 207</p> <p>1 Q Yes. 2 A No. Because I was 100 percent confident 3 that I had not done anything with that company or 4 know of that company. 5 Q Looking to the next page 3566, towards the 6 bottom of the page starting at the time stamp 7 2:37:54. We're going to continue this on to the 8 next page. You see a question that says, why are 9 you putting that stuff on FB, question mark? 10 Do you see that? 11 A Oh, yeah. 12 Q What stuff are you putting on Facebook? 13 A I'm not sure what, but I believe I was 14 trying to do fund raising to -- I was trying to 15 raise funds. I was thinking about doing -- what do 16 you call it? Go Fund Me. 17 Q Crowd sourcing? 18 A Yeah. 19 Q Next response you get besides, you respond 20 back and you receive another response from 21 Stephanie. And she says, but you sharing your moves 22 online. You respond back and say, my real moves are 23 never shared, girl. This is just the bait and 24 switch. 25 What are your real moves?</p> | <p style="text-align: right;">Page 209</p> <p>1 for this, years of preparation. What were you 2 preparing for? 3 A That's my bragging about my mental 4 abilities. That's the most I can say, you know, 5 like, I'm built to fight. I'm built to, you know -- 6 that's how I look at things. I've always been a 7 person that does my job, so. 8 Q Well, the next response back is, yes, I 9 know you prepared. 10 A Yeah. 11 Q What were you preparing? 12 A That -- I don't know the context of what I 13 prepared, but either, thought you were like Ben -- I 14 don't know. This is very difficult right there, not 15 fully thought out. 16 Q Going down to the next page 3569. Time 17 stamped 3:38:23. 18 MR. CHEN: Give me a sec to look through 19 these pages. There's a lot of content. 20 MR. LURIE: It's entertaining, too. 21 MR. CHEN: Okay. 22 Q You write, fuck Ted. Soon I can make some 23 money off Ted. I'll fuck him over. He's a total 24 fucking douche. I keep them close though, because 25 I'm the ultimate enemy.</p> |

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| <p style="text-align: right;">Page 210</p> <p>1 What do you mean by that?</p> <p>2 A This is conversation, um, 1, 3, 7 -- oh,</p> <p>3 because -- I believe this is -- this is 2017, so,</p> <p>4 Ted and I was in the Philippines, and he did some</p> <p>5 things that I didn't like, so.</p> <p>6 Q What did he do that you didn't like?</p> <p>7 A Just, you know, personal things. Like,</p> <p>8 you know.</p> <p>9 Q What personal things?</p> <p>10 A Like smoking, you know, dealing with girls</p> <p>11 that I like -- we were together in the Philippines,</p> <p>12 so you know.</p> <p>13 Q What money were you planning to make off</p> <p>14 of Ted?</p> <p>15 A I don't know. It's just another world.</p> <p>16 Q What do you mean by this is another world?</p> <p>17 A No, I'm saying, I don't know exactly.</p> <p>18 This is 2017, so it's two years after Avatar,</p> <p>19 approximately two years. January, I already came</p> <p>20 back from the Philippines. Yeah, I don't know</p> <p>21 really what this -- I had nothing where I was</p> <p>22 working with Ted at this time, so --</p> <p>23 Q Have you had any communication with Ted as</p> <p>24 of late?</p> <p>25 A No.</p> | <p style="text-align: right;">Page 212</p> <p>1 Q So, when was that approximately, when you</p> <p>2 heard this from Ted?</p> <p>3 A I didn't hear from Ted. I saw it in a</p> <p>4 filing that you guys had, that said I was stalking</p> <p>5 George or something; and I sent pictures to his job.</p> <p>6 I don't know. I breeze through these things and</p> <p>7 keep it moving, stay focused.</p> <p>8 Q Bear with me. I'm just trying to get to a</p> <p>9 certain page. Going through this document trying to</p> <p>10 find a page. Can I ask you what your understanding</p> <p>11 of the term alternative facts means?</p> <p>12 A Alternative facts?</p> <p>13 Q Alternative facts.</p> <p>14 A It's a famous phrase from Kelly Anne</p> <p>15 Conway.</p> <p>16 Q What does it mean?</p> <p>17 A My interpretation of it?</p> <p>18 Q Yeah. Your interpretation.</p> <p>19 A It's like building your own truth.</p> <p>20 Q A lie?</p> <p>21 A Hm?</p> <p>22 Q It's a lie.</p> <p>23 A Depends on who's, you know.</p> <p>24 Q Well, you're billing your own truth?</p> <p>25 A Yeah.</p> |
| <p style="text-align: right;">Page 211</p> <p>1 Q When was the last time you remember</p> <p>2 speaking to him?</p> <p>3 A I don't know. I can't tell. It would be</p> <p>4 in my messages if I did. Might have sent me a link</p> <p>5 for it. I'm not sure.</p> <p>6 Q Did you have any Facebook conversations</p> <p>7 with him?</p> <p>8 A Ted?</p> <p>9 Q Yes.</p> <p>10 A I don't think he's a Facebook friend.</p> <p>11 Q Did you ever ask anyone to pass along</p> <p>12 information to Ted through Facebook?</p> <p>13 A I'm not sure. That one would have to be</p> <p>14 in records.</p> <p>15 Q Okay. Besides being in the Philippines</p> <p>16 and being around his smoking and going after the</p> <p>17 same women as you, Ted do anything else to you?</p> <p>18 A I would -- yeah, pretty sure.</p> <p>19 Q What else did Ted do to you?</p> <p>20 A Things, like, I remember George had some</p> <p>21 information on me. And it was, you know, it could</p> <p>22 only come from Ted.</p> <p>23 Q What information is that?</p> <p>24 A I remember he said he fired me or</p> <p>25 something, I remember.</p> | <p style="text-align: right;">Page 213</p> <p>1 Q Well, if your building your own truth, is</p> <p>2 it the truth?</p> <p>3 A It's for the fact to decide, so --</p> <p>4 Q So if someone started saying that a</p> <p>5 statement, and you were to respond and say that's an</p> <p>6 alternative fact, what would you mean by that?</p> <p>7 Personally, what would you mean by telling someone</p> <p>8 it's an alternative fact?</p> <p>9 A I'm not sure.</p> <p>10 Q Would you basically telling them what</p> <p>11 they're saying is a lie?</p> <p>12 A It's a catchy word. It's, they believe</p> <p>13 it's true.</p> <p>14 Q Jumping way, way, way back, page 3665.</p> <p>15 A I'm at 3665.</p> <p>16 Q Take a moment. Counsel, when your done --</p> <p>17 MR. CHEN: I finished reading that.</p> <p>18 THE WITNESS: I'm finished.</p> <p>19 MR. LURIE: Counsel?</p> <p>20 MR. CHEN: Yeah.</p> <p>21 Q Starting with your first statement, this</p> <p>22 is dated 7-29-17 at 8:13:24 A.M. In response to a</p> <p>23 question of whether or not the case settled.</p> <p>24 A Wait, wait, I'm on the wrong page, then.</p> <p>25 Q 3665.</p> |

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| <p style="text-align: right;">Page 214</p> <p>1 A 366 -- I'm on 3655. Okay. Let me get a 2 second. Okay. 3 Q Once again, there's a question for you 4 from Stephanie. So the case settled. Your 5 response, know that MF is playing hard ball and Ted 6 is collaborating with him against me. I found out 7 when he received a phone call from Ted while he was 8 in the waiting area. If Ted gets involved, I'm 9 going to ruin his life by putting him in jail for 10 conspiracy. I expressed that to Jason a couple of 11 days ago for him to relay that message to him. 12 What did Ted do that's conspiracy that is 13 going to put him in jail? 14 A I don't know. This is just me talking out 15 of anger. I don't -- 16 Q Let me ask you this. 17 A I know things that he's done that's bad. 18 Q What has Ted done that's bad? 19 A He was alleged for stealing money, beating 20 his wife, and other bad things that I don't -- I 21 don't really have proof. That's the things that I 22 heard. 23 Q What things have you heard? 24 A That he was a drunk, and beats his wife, 25 and he was the one of the guys stealing money. Him</p> | <p style="text-align: right;">Page 216</p> <p>1 Comey? 2 A Oh. I love those guys. 3 Q A lot of negative things about trump? 4 MR. CHEN: I'm going to obviously object 5 to -- 6 A I love Trump too. Without Trump, I 7 wouldn't know a lot of things that I -- 8 MR. CHEN: I'm going to object to this 9 line of questioning that's about his political 10 beliefs, unless there's a specific point that 11 you're getting into. 12 MR. LURIE: There is, but I'm going to 13 move on. Moving to the next page. 14 MR. CHEN: What page? 15 MR. LURIE: Actually, flip two pages 3667. 16 In total at the bottom. There's three messages 17 from you at the very bottom dated 7-29-17. All 18 are approximately 9:40 to 9:41 A.M. 19 A Okay. 20 Q You state FLSA exhausted 10K. Other 21 project exhausted 15K to total 40K. 22 You're speaking about legal fees. What's 23 the other projects that you're referencing here? 24 A That's -- where is number, one, two -- I 25 don't know exactly how to phrase this because this</p> |
| <p style="text-align: right;">Page 215</p> <p>1 and Oscar lived in a house together, so -- 2 Q What does conspiracy mean to you? 3 A To -- I might have used the wrong word 4 there, but conspiracy meaning to be a part of 5 something -- to me, to be a part of something and 6 harming or hurting that thing that you're apart of. 7 Q And this reference to Jason, that's Jason 8 Gentry? 9 A I would assume so. They're best friends. 10 Q You're friends with Jason? 11 A Huh? Jason is a nice guy. 12 Q This might sound kind of weird. Mr. 13 Stewart, you do post a lot on Facebook, correct? 14 A Fairly. 15 Q You sort of express your political views 16 on Facebook and other places? 17 A I don't know if it's really political 18 views. I just throw it out there and based on what 19 I'm reading at the time. I just post it. 20 Q Would you consider yourself a liberal? 21 A I voted for one. That's about it. Last 22 year. Maybe. I mean, the last election -- 23 Q You happen to -- strike that. In 24 communications with people, did you post a lot of 25 positive things about, for example, Mueller and</p> | <p style="text-align: right;">Page 217</p> <p>1 is just me throwing numbers out there to her. And 2 I'm pretty sure I spent more than that. 3 Q Jumping ahead, page 3669. I only want to 4 direct you to two text messages on 8-15-17 at 2 5 o'clock P.M. 6 A All right. Three -- 7 Q Right in the middle of the page, page 8 3669. 9 A Okay. Read it. 10 Q You write, did I tell you Ted snitched on 11 me to George about when I went to Baguio, 12 B-A-G-U-I-O, last year? I'm going to put Ted in 13 jail for that shit. 14 So, what did Ted -- what do you believe 15 Ted told George about you going to Baguio? 16 A Oh. It was -- he told -- it was in one of 17 the filings that you made that had something about 18 me getting fired for reasons of the "me too" 19 movement, something about sexually harassing 20 someone. 21 Q What are you going to put Ted in jail for? 22 A That's just me. 23 Q You vent a lot? 24 A Huh? 25 Q You vent a lot?</p> |

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| <p style="text-align: right;">Page 218</p> <p>1 A To my friends, yeah.</p> <p>2 Q You tell them you're going to put people</p> <p>3 in jail?</p> <p>4 A Yeah, I guess I did it more than once.</p> <p>5 Q Let's skip down to the next page, 3671.</p> <p>6 Date 11-28-17, time stamped 7:17 A.M.</p> <p>7 A 7:17 A.M.</p> <p>8 MR. CHEN: Sorry. What page? I think I'm</p> <p>9 at the wrong one.</p> <p>10 THE WITNESS: 3671?</p> <p>11 Q 3671, yes.</p> <p>12 A Okay. Read it.</p> <p>13 Q You write, when you get a chance, try to</p> <p>14 recall this day, April 10, 2014. This is the date</p> <p>15 that George came to my office and brutally attacked</p> <p>16 me out of no where, space between no and where,</p> <p>17 yelling and screaming, you fucked up. Next he sent</p> <p>18 you that email on the following Saturday to reduce</p> <p>19 my salary to half. Who was present at the office</p> <p>20 that day, question mark? Ted Nehls, Peter Cafala</p> <p>21 [ph], Randy Ulloa [ph], Edevict Veneeszula. Was</p> <p>22 Breeya, comma, Ken, or Dylan also there, question</p> <p>23 mark.</p> <p>24 Is that an accurate reading?</p> <p>25 A Yep.</p> | <p style="text-align: right;">Page 220</p> <p>1 A I would assume that's Jason Gentry, fellow</p> <p>2 employee.</p> <p>3 Q Telephone number it says is, XXX-XXX-XXXX,</p> <p>4 correct?</p> <p>5 A Mm-hmm.</p> <p>6 Q Do you recognize that telephone number to</p> <p>7 be that of --</p> <p>8 A No. But of course.</p> <p>9 Q Do you believe these to be messages with</p> <p>10 Jason Gentry?</p> <p>11 A I'm not sure. Oh, if that's him signing</p> <p>12 his name, then I would assume that. Yeah.</p> <p>13 Q Did you previously at any time ask Jason</p> <p>14 Gentry to fund litigation?</p> <p>15 A I'm not sure if I did. I asked a lot of</p> <p>16 people.</p> <p>17 Q Did you make any deals with Jason Gentry</p> <p>18 with respect to this current litigation?</p> <p>19 A Did I --</p> <p>20 Q Strike that. That was a confusing</p> <p>21 question. I've confused myself with it. You're</p> <p>22 aware that Jason Gentry has also filed an action</p> <p>23 against Mr. Kaltner, correct?</p> <p>24 A Yes.</p> <p>25 Q Now, besides the fact that you introduced</p> |
| <p style="text-align: right;">Page 219</p> <p>1 Q What do you think George was yelling at</p> <p>2 you for, quote on quote, fucking up?</p> <p>3 A I have no idea until this day.</p> <p>4 Q What do you believe he was referencing?</p> <p>5 A The whole raid thing with -- that's what I</p> <p>6 remember. The whole raid thing with surrogate and</p> <p>7 RPI and those other things. I didn't go to the</p> <p>8 raid, you know. It was, like, it's going. I</p> <p>9 refused to.</p> <p>10 Q The raid took place in April of 2014?</p> <p>11 A No. I think it's -- no, no, no. That's a</p> <p>12 typo.</p> <p>13 Q When did the raid take place?</p> <p>14 A This should have been 2015. The raid took</p> <p>15 place in August of 2014.</p> <p>16 Q Okay. Let's do this now. Stewart 18.</p> <p>17 (Stewart Eighteen was marked for</p> <p>18 identification.)</p> <p>19 Q Once again, we'll go through some of the</p> <p>20 pages and make this a little bit easier. Do you</p> <p>21 recognize this document? Let me make it easier. Do</p> <p>22 you recognize these communications?</p> <p>23 A I see them. But, you know, as I read</p> <p>24 them, I would probably get a better picture.</p> <p>25 Q Who's Jason Gent, G-E-N-T?</p> | <p style="text-align: right;">Page 221</p> <p>1 him to counsel, do you have any financial</p> <p>2 investments in that litigation?</p> <p>3 A No, no.</p> <p>4 Q Were you assisting him in drafting the</p> <p>5 pleading in that pattern?</p> <p>6 A Drafting -- what do you mean drafting?</p> <p>7 Q Did you help him write his story for the</p> <p>8 complaint?</p> <p>9 A I don't think I did that. Not sure why I</p> <p>10 would write that.</p> <p>11 Q Moving forward to page 3033.</p> <p>12 A 3033.</p> <p>13 Q Looking at specifically a time stamp,</p> <p>14 11-19-17 5:05:47 P.M. You write, I read the filing.</p> <p>15 If I was normal, I would be jealous. Paragraph 62</p> <p>16 looks odd. I forgot what that type of information</p> <p>17 is called, semicolon. Privilege or alternative</p> <p>18 facts. Any way, it's damaging. Wow, comma, nicely</p> <p>19 stated.</p> <p>20 A Okay.</p> <p>21 Q What did you mean by that?</p> <p>22 A Must have read something from a case that</p> <p>23 I commented on.</p> <p>24 Q What did you mean by it being alternative</p> <p>25 facts?</p> |

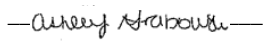
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| <p style="text-align: right;">Page 222</p> <p>1 A Pretty sure I probably Googled that and 2 added it in.</p> <p>3 Q Let's step back a little bit. Previously 4 talking to him about, he had sent you the link to 5 the complaint that he filed against -- the, my 6 client. You state later on that you read the 7 filing, paragraph 62 is alternative facts. What did 8 you mean by, paragraph 62 is alternative facts?</p> <p>9 A I would assume that's in his filing. I 10 don't know what the content of paragraph 62 is.</p> <p>11 Q Well, why would you tell -- mention to 12 someone that something is an alternative fact?</p> <p>13 A I don't know the content of what that is. 14 I hear it a lot on TV, you know? I watch a lot of 15 MS-NBC, Fox News --</p> <p>16 Q Someone says -- strike that. So you have 17 no concept of what the quote-on-quote term 18 alternative facts means?</p> <p>19 A Hey, I just know it's a legal term that's 20 used.</p> <p>21 Q It's a legal term?</p> <p>22 A Yeah.</p> <p>23 Q To the best of your recollection, the 24 complaint written by -- strike that. To the best of 25 your recollection the complaint filed by Jason</p> | <p style="text-align: right;">Page 224</p> <p>1 Q Let's do 19. 2 (Stewart Nineteen was marked for 3 identification.)</p> <p>4 Q At the same time, let's do 20. 5 (Stewart Twenty was marked for 6 identification.)</p> <p>7 Q I apologize. 20 is not the most legible 8 document. I ask you to take a look at documents 9 that have both been marked as Stewart 19 and 20 for 10 identification purposes. Did you post on Facebook 11 at some point, Sales Dialer Pro, comma, Avatar 12 Technologies Inc. comma, Avatar Outsourcing Inc, 13 comma, Voiceless Technologies Inc. comma, Sales 14 Technologies Inc, comma, Lucky Seven and its owners 15 can go suck balls, dot, dot, dot, dot, L-M-F-A-O 16 explanation point. Long live Avatar Dialler, with 17 two L's, dot com. Go suck that, b!tches, with an 18 exclamation point replaced for the I in bitches.</p> <p>19 A It could be anything like that.</p> <p>20 Q Do you recall posting this on Facebook?</p> <p>21 A Oh, yes. I do.</p> <p>22 Q Now, looking at Stewart 20 for 23 identification purposes. Once again, I apologize 24 this is not the most legible document. But I 25 believe that this post says -- correct me if I'm</p> |
| <p style="text-align: right;">Page 223</p> <p>1 Gentry, did it contain any other alternative facts?</p> <p>2 A I wouldn't know.</p> <p>3 Q Let's jump around a little bit. 4 Previously, we talked about this with Avatar 5 Dialler. You have no involvement with the company?</p> <p>6 A No.</p> <p>7 Q Why are you telling people that you were 8 part of the company?</p> <p>9 MR. CHEN: Objection. I think he said 10 repeatedly person; and also, I think he's 11 answered that question about three times at 12 this point.</p> <p>13 MR. LURIE: Well, it's little bit 14 different. Because we talked specifically 15 about certain people.</p> <p>16 Q Did you post on Facebook identifying that 17 Avatar -- strike that. Do you recall posting 18 anything on Facebook where you referred to Avatar 19 Dialler with two L's as your company? And I believe 20 you responded to my client and told them that they 21 could do something somewhat perverse?</p> <p>22 A I'm not sure. I just know what I looked 23 at that filing. I'm like, at least they could have 24 just checked the email address, and they would have 25 been like, oh.</p> | <p style="text-align: right;">Page 225</p> <p>1 wrong. No court can stop my company, semicolon, 2 you'll just be opening Pandora's box. You steal. I 3 steal. My man steal. We all steal, so live with it 4 and back the fuck down. Night will take up Queen.</p> <p>5 Is that an accurate reading?</p> <p>6 A Yes.</p> <p>7 Q Did you post that on Facebook?</p> <p>8 A Yes. I did.</p> <p>9 Q What's your company?</p> <p>10 A I don't have a company. This is not 11 directed at any specific company.</p> <p>12 Q Do you recall when you posted that?</p> <p>13 A No. I'm trying to see the date.</p> <p>14 Q Unfortunately, I -- the realty of exhibits 15 is it's as they're provided to you.</p> <p>16 A Who is Nico Tan? That's Oscar?</p> <p>17 Q Once again, my questions to you, not your 18 questions to me.</p> <p>19 A Oh. Oh, yeah. I did post this. You know 20 why? Prior to knowing fully -- all right. So this 21 is the Nico Tan, guy. All right. I recall this 22 now.</p> <p>23 Q Why are you posting these documents 24 saying, long live Avatar Dialler, and no one can 25 stop my company?</p> |

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| <p style="text-align: right;">Page 226</p> <p>1 A Because this actor, I did not know who 2 they were. And I suspected it was Oscar because he 3 friend requested a bunch of us; so I put that out 4 there for them to reply to it; and I remember exact 5 -- because Nico Tan is not anybody that I knew of. 6 Q Is this your Facebook page? 7 A Yes, it is. 8 Q So you're just putting this out here 9 hoping to bait people by passing yourself off as a 10 company? 11 A I wanted to know who Nico Tan really was, 12 just like how Sara Ferrer is another one that I made 13 a lot of statements to find out who's behind these 14 fake accounts. 15 Q What if no one put any response to that 16 from this quote-on-quote fake account. You still 17 post it up there saying, long live 18 Avatardialler.com, and then long live my company. 19 A So if they're not Avatar Dialler, Nico 20 Tan, then I don't understand how you guys -- 21 Q So you were holding yourself out to be the 22 owner of Avatar Dialler, hoping to bait someone 23 named Nico Tan into believing that? 24 A No. I wanted Nico Tan to reply. 25 Q Why?</p> | <p style="text-align: right;">Page 228</p> <p>1 Q Do you recall ever offering anyone money 2 to provide information? 3 A I don't recall exactly. 4 Q Do you recall ever offering anyone to pay 5 them to provide you with statements about my 6 clients? 7 A I don't recall. I would have to see. 8 Q You were providing services for my clients 9 since at least 2012, correct? 10 A I have worked for them since 2011. 11 Q You provided services for my clients since 12 at least 2012, correct, yes? 13 A Yes. 14 Q And at that time, do you recall seeing 15 them going to court to fight to keep their 16 trademark? 17 A I've seen things. But I never really paid 18 much attention to it. 19 Q We talked about other times when other 20 employees or agents violated contracts with non 21 compete agreements with my clients, correct? 22 A Repeat. 23 Q Sure. During the time that you were 24 providing services for my clients, you previously 25 testified that you saw what happens when individuals</p> |
| <p style="text-align: right;">Page 227</p> <p>1 A So I can know who exactly is this person. 2 Q So you were trying to bait him into -- 3 A I was trying to figure you out the 4 identity similar to the Sara Ferrer. I make a lot 5 of statements. 6 Q So you held yourself off -- you passed 7 yourself off as the owner of Avatardialler.com for 8 the purpose of hoping that Nico Tan would comment on 9 it so you could try to figure out who he was? 10 A Yeah. 11 MR. CHEN: Objection. That's not his 12 testimony. 13 A Here, that's two separate things. 14 Q Then what's your company? 15 A If I would have said Avatar Dialler, then 16 that would be more. But I didn't state a company. 17 I did it to get response, to figure out who's 18 looking to attack me on Facebook. 19 Q Do you ever reach out to any employees and 20 offer to pay them for information? 21 A I don't believe I had ever paid any 22 employee for information. 23 Q Did you offer to pay them money for 24 information? 25 A I would have to see --</p> | <p style="text-align: right;">Page 229</p> <p>1 or either employees or contractors for my clients 2 violate their non complete, correct? 3 A I've never seen what happened to 4 contractors that violate the non compete. I'm not 5 sure. 6 Q You previously testified that you were 7 aware that when other parties violate their non 8 compete agreements that my clients institute a 9 litigation, correct? 10 A I'm not sure. I would have to see -- I 11 don't remember that statement too much. 12 Q Did you not previously testify that when 13 individuals or former employees of Avatar 14 Technologies Philippines left and opened up 15 Surrogate Technologies? 16 A Oh, okay. 17 Q But they filed an action for violating 18 their non compete agreements? 19 A Yeah. You're talking about another 20 country; so that's what confuses me. I don't see 21 how that worked. 22 Q But you previously testified to that, 23 correct? 24 A That they go after these guys for 25 violating their -- I don't know what non compete</p> |

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| <p style="text-align: right;">Page 230</p> <p>1 they had, or if they went for non compete.</p> <p>2 Q Wasn't your testimony that for violating</p> <p>3 non compete agreements?</p> <p>4 A No, it's competitors. They were</p> <p>5 competitors of Avatar. They were ex-employees.</p> <p>6 Never said they violated the agreement.</p> <p>7 Q Okay. You saw that there was a quite bit</p> <p>8 the of litigation going on with my client while you</p> <p>9 were providing services, correct?</p> <p>10 A Quite a bit as --</p> <p>11 Q There were multiple lawsuits that were</p> <p>12 filed while you were providing services, correct?</p> <p>13 A Yes. I assumed.</p> <p>14 Q My clients --</p> <p>15 A I never paid attention to when the</p> <p>16 lawsuits are coming in. I didn't read the</p> <p>17 specifics. So I just know sometimes they send, pay</p> <p>18 this or pay that; or send this to someone else to</p> <p>19 take care of.</p> <p>20 Q But you're aware that they -- my clients</p> <p>21 were litigious?</p> <p>22 A To the extent that they had proof, yeah.</p> <p>23 When they went after RPI and Surrogate, they hacked</p> <p>24 into their server and got the information that they</p> <p>25 had the proof to say, you know, this client is with</p> | <p style="text-align: right;">Page 232</p> <p>1 A Of course not, because I don't have any</p> <p>2 entity or, you know. I was -- when I first uttered</p> <p>3 the word Avatar Dialler, I was speaking to a friend.</p> <p>4 Then that conversation got --</p> <p>5 Q You said that she was the spy?</p> <p>6 A Oh, yeah.</p> <p>7 Q She was George's spy?</p> <p>8 A Yeah.</p> <p>9 Q But she's your friend?</p> <p>10 A Yeah. We communicated nice, went to the</p> <p>11 pool in Philippines, and we interact a lot.</p> <p>12 Q You didn't think that my clients would</p> <p>13 bring an action against you for passing yourself off</p> <p>14 as Avatar Dialler?</p> <p>15 A Not in the context of me communicating</p> <p>16 with Marby Cordero about blowing smoke up her when</p> <p>17 she's not an employee of Avatar Philippines. I</p> <p>18 never think of that, especially when you can just</p> <p>19 check the email addresses or something. Max Duncan</p> <p>20 was the master, figuring out things.</p> <p>21 Q So, once again, you did not anticipate</p> <p>22 litigation. But you don't know about trademark law,</p> <p>23 correct?</p> <p>24 A Exactly. Especially because since the</p> <p>25 company existed. So I would never think to say, oh,</p> |
| <p style="text-align: right;">Page 231</p> <p>1 them and us at the same time. That's what I recall</p> <p>2 from the RPI issue.</p> <p>3 Q Did you not think that by -- strike that.</p> <p>4 Now, this has been asked and answered. So let me</p> <p>5 get through the predicate first before the question.</p> <p>6 You testified that you believed that people were</p> <p>7 spying. There were people who were spies. There</p> <p>8 were -- who were contacting you, and someone who you</p> <p>9 believe to be Oscar Varuk was creating a fake</p> <p>10 Facebook page and utilizing it to try to friend you,</p> <p>11 and you don't know what the purpose was and that you</p> <p>12 were willing to go out and post up information to</p> <p>13 try and bait them into taking some type of action?</p> <p>14 A No. Not taking an action. I just want</p> <p>15 them to respond to this, and if those actors are</p> <p>16 from Avatar, then I would know, hey the guy</p> <p>17 responded, so --</p> <p>18 Q Isn't a response an action?</p> <p>19 A Oh, I didn't hear action. I heard actor.</p> <p>20 Sorry.</p> <p>21 Q Action. They would take some type of</p> <p>22 action, correct?</p> <p>23 A Response of action, yes. Not legal</p> <p>24 action.</p> <p>25 Q You didn't anticipate legal action?</p> | <p style="text-align: right;">Page 233</p> <p>1 they don't have the right to that name.</p> <p>2 Q But once again, you don't know trademark</p> <p>3 law, correct?</p> <p>4 A No, I don't.</p> <p>5 Q So, subsequent to approximately January of</p> <p>6 this year, 2018, have you been in communication with</p> <p>7 Rauti Ulloa?</p> <p>8 A Yeah. Of course.</p> <p>9 Q When was the last time you spoke with him?</p> <p>10 A We spoke at a wedding last time.</p> <p>11 Q When was that?</p> <p>12 A Not sure. It's -- it was in Queens. It</p> <p>13 was --</p> <p>14 Q A week ago?</p> <p>15 A No, no, no.</p> <p>16 Q A month?</p> <p>17 A No, more like six months. Maybe it was,</p> <p>18 maybe, like, in November. It was getting chilly.</p> <p>19 So October, November.</p> <p>20 Q So since January of 2018, have you had any</p> <p>21 communications with Mr. Ulloa?</p> <p>22 A I -- oh, yes. I did. I did. I did. I</p> <p>23 did.</p> <p>24 Q What -- how did you communicate with him?</p> <p>25 A Via text.</p> |

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| <p style="text-align: right;">Page 234</p> <p>1 Q Do you have additional text messages since 2 January of 2018?</p> <p>3 A I spoke to Rauti -- no, I think I called 4 him -- yes. I called him and he said something 5 about, he doesn't work at Avatar anymore. Yeah. I 6 think it was something like that.</p> <p>7 Q Counsel, obviously there's a continuation 8 obligation of discovery and --</p> <p>9 MR. CHEN: You still have access to his 10 phones.</p> <p>11 MR. LURIE: I don't access to the phone. 12 I made an image of the hard drive.</p> <p>13 MR. CHEN: What happened to the telephone 14 -- don't you have access to his phone?</p> <p>15 MR. LURIE: No. I only have access to 16 what existed up until the time of what existed 17 at the exact time. So all the text messages 18 since January --</p> <p>19 MR. CHEN: I will look at the subsequent 20 text messages to see if it conforms to any of 21 your discovery demands.</p> <p>22 MR. LURIE: Specifically, obviously --</p> <p>23 MR. CHEN: I don't have it in front of me, 24 so I don't know exactly which demand that that 25 text message would be in relation to.</p> | <p style="text-align: right;">Page 236</p> <p>1 Q Why are you continuing for a period of 2 time to just complain and crying?</p> <p>3 A That all started back in August when I got 4 my first letter; and then when I attempted to 5 communicate with George, next thing you know, we 6 ended up in going legal; and by the time I filed my 7 FSLA, he then sent me a lawsuit saying, you know, 8 you have copy -- you've done copyright infringement.</p> <p>9 Q Do you recall receiving a letter from 10 Eugene Strupinsky in August of 2015, basically 11 telling you that you're violating agreements, and if 12 you don't agree to sign a confession of judgment 13 that we would reserve all rights to bring any 14 actions we deem necessary?</p> <p>15 A That's when I consulted counsel.</p> <p>16 Q So you didn't think that as of August of 17 2015, that hey, these guys are real jerks, they're 18 such big jerks, they're getting their attorneys and 19 they're threatening me, bullying me. I know you 20 have utilized that term when we talked about it. 21 Didn't think to say, I don't want to have anything 22 to do with these people. I don't want to bother 23 them, I don't want to see them, I don't want to do 24 anything with them? Why didn't just walk away then?</p> <p>25 A I believe it was too late because they</p> |
| <p style="text-align: right;">Page 235</p> <p>1 MR. LURIE: I understand. Once again, we 2 can talk a little bit more about that off the 3 record.</p> <p>4 MR. CHEN: Sure.</p> <p>5 Q Mr. Stewart, once again, I'm trying to 6 understand this. You wanted to -- you are no longer 7 providing services for my clients as of April of 8 2015?</p> <p>9 A Mm-hmm.</p> <p>10 Q Why didn't you just say, enough is enough, 11 move on and not just post documents on Facebook, or 12 put up copies of letters saying that you're a 13 persona no grata or anything else? Why couldn't you 14 just walk away?</p> <p>15 A That information was sent to me by 16 someone.</p> <p>17 Q By whom?</p> <p>18 A That was after I left Avatar.</p> <p>19 Q So why couldn't you have just said, you 20 know, these guys are real jerks?</p> <p>21 A That was one of their jerk things. I was, 22 like, why would they put this up there?</p> <p>23 Q Why are you going and taking that and 24 copying the language and posting it onto Facebook?</p> <p>25 A I don't know.</p> | <p style="text-align: right;">Page 237</p> <p>1 initiated this. I walked away. I took a trip to 2 the Philippines. There was no need to start serving 3 me papers. I never had a company prior. I never 4 intended to own a company, and --</p> <p>5 Q But you're hoping to open up a company 6 called Callvation in the Philippines, right?</p> <p>7 A What was that?</p> <p>8 Q What was the name of the company you were 9 attempting to open up in the Philippines?</p> <p>10 A I was -- we didn't have a name yet. But I 11 --</p> <p>12 Q What was the intended name?</p> <p>13 A I don't know the -- it might have been -- 14 I think it's Opus BPO or something like that. I'm 15 not sure.</p> <p>16 Q Did you receive payment from a company 17 called Callvation?</p> <p>18 A Yes, I did.</p> <p>19 Q Who is Callvation?</p> <p>20 A Jeff Torrez.</p> <p>21 Q Jeff Torrez.</p> <p>22 A Mm-hmm.</p> <p>23 Q Out of curiosity, what do you know about 24 Jeff Torrez?</p> <p>25 A Not much other than a guy I, you know, got</p> |

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| <p style="text-align: right;">Page 238</p> <p>1 paid from.</p> <p>2 Q For this call center?</p> <p>3 A Yeah.</p> <p>4 Q This is more just a comment, rather than a</p> <p>5 question. I'd Google him. I believe your counsel</p> <p>6 is going to.</p> <p>7 A Yeah. I heard some -- I mean --</p> <p>8 Q Are you familiar with what is going on</p> <p>9 with him?</p> <p>10 A No, no. But I just sensed a bad actor.</p> <p>11 Q But, even still, you already thought Ted</p> <p>12 was a slime bag, right?</p> <p>13 A My outlook on life sometimes -- I try not</p> <p>14 to judge. I know Ted is who he is. And you know --</p> <p>15 Q Wasn't this just that you were struggling</p> <p>16 financially, just were looking for anything at that</p> <p>17 point?</p> <p>18 A Not anything. I was looking to travel to</p> <p>19 the Philippines. I actually love the place.</p> <p>20 Q You want to move there?</p> <p>21 A Oh, I would. But for now, I can't travel</p> <p>22 there.</p> <p>23 Q No further questions.</p> <p>24 THE VIDEOGRAPHER: We're now off the</p> <p>25 record. The time on the video monitor is 6:27</p> | <p style="text-align: right;">Page 240</p> <p>1 WITNESS CERTIFICATION</p> <p>2 I have read the foregoing transcript of my</p> <p>3 deposition and find it to be true and accurate to</p> <p>4 the best of my knowledge and belief.</p> <p>5</p> <p>6</p> <p>7 _____</p> <p>8 DAVID STEWART (Witness)</p> <p>9</p> <p>10 Sworn to before me</p> <p>11 on this day of 2018.</p> <p>12</p> <p>13 NOTARY PUBLIC</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |
| <p style="text-align: right;">Page 239</p> <p>1 P.M.</p> <p>2 (At 6:27 P.M. the witness was excused</p> <p>3 and the deposition was concluded.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 241</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 I, ASHLEY GRABOWSKI, a Shorthand Reporter and</p> <p>4 Notary Public of the State of New York, do hereby</p> <p>5 certify:</p> <p>6 That the witness whose examination is</p> <p>7 hereinbefore set forth, was duly sworn, and that</p> <p>8 such examination is a true record of the testimony</p> <p>9 given by such witness.</p> <p>10 I further certify that I am not related to any</p> <p>11 of the parties to this action by blood or marriage;</p> <p>12 and that I am in no way interested in the outcome of</p> <p>13 this matter.</p> <p>14 IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>15 this day, JUNE 5, 2018.</p> <p>16 ASHLEY GRABOWSKI</p> <p>17</p> <p>18 </p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |

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 6 DATE OF DEPOSITION: 6/5/2018
 7 WITNESS' NAME: David Stewart
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 9 PAGE/LINE(S)/ CHANGE REASON
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 21 David Stewart
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[25,000 - a.m.]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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EXHIBIT B

1
2 UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF
4 NEW YORK

5 Civil Case No: 7:16-cv-09337-KMK-LMS
6

7 GEORGE KALTNER (individually),)
8 COMPLIANT DIALER, INC d/b/a)
9 AVATAR OUTSOURCING, VOICELESS)
10 TECHNOLOGIES INC; SALES)
11 TECHNOLOGIES, INC (defunct) and) DEPOSITION OF:
12 AVATAR TECHNOLOGIES, INC)
13 (defunct),) EDIVICT

14 Plaintiffs,) VALENZUELA
15)

16 -vs-)
17)

18 DAVID STEWART (individually);)
19 DAVID TPO, LLC (a New York)
20 Limited Liability Company;)
21 AVATAR DIALLER, LTD, (a foreign)
22 for-profit entity); DIALER360,)
23 LTD.(a foreign for-profit)
24 entity); PRIMO DIALLER, LTD (a)
25 foreign for-profit entity,)
DAVID STEWART (in his official)
capacity as an agent of Avatar)
Dialler, Ltd, et al,)

Defendants.)
19)

20
21 TRANSCRIPT of the stenographic notes of
22 the proceedings in the above-entitled matter, as
23 taken by and before DEBORAH A. GAUGHAN, a Certified
24 Shorthand Reporter and Notary Public of the State of
25 New Jersey, License No. X100687, held at the office
of STEVEN SCHUSTER, ESQ. 75 Essex Street, Hackensack,
New Jersey, on June 18, 2018 commencing at 1:40 p.m.
Job No. NJ2944365

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| <p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4 A P P E A R A N C E S:</p> <p>5</p> <p>6 LURIE STRUPINSKY LLP</p> <p>Two University Plaza</p> <p>7 Hackensack, New Jersey 07601</p> <p>BY: JOSHUA M. LURIE, ESQ.</p> <p>8 Attorneys for the Plaintiff</p> <p>9 STEVEN SCHUSTER, ESQ.</p> <p>75 Essex Street</p> <p>10 Hackensack, New Jersey 07601</p> <p>Attorney for the Witness</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 4</p> <p>1 EDIVICT VALENZUELA, 186 Wiermus Street, East Orange,</p> <p>2 New Jersey, having been duly sworn by the Notary</p> <p>3 Public, testified as follows:</p> <p>4 EXAMINATION BY MR. LURIE:</p> <p>5 Q. My name is Joshua Lurie. I represent a</p> <p>6 client, Dialer Avatar Technologies, Sales</p> <p>7 Technologies, Voiceless Technologies and George</p> <p>8 Kaltner in this matter.</p> <p>9 MR. LURIE: Before we begin, I have to</p> <p>10 make a preliminary statement on the record. I'm going</p> <p>11 to ask some preliminary questions and some</p> <p>12 instructions.</p> <p>13 The first thing what I want to make sure</p> <p>14 is on the record here is that the attorney for David</p> <p>15 Stewart, Jacob Chen was notified that this deposition</p> <p>16 was taking place today. He earlier this morning</p> <p>17 notified me he would not be attending today. He has</p> <p>18 not challenged your deposition. He has not put any</p> <p>19 opposition to your deposition. He just decided not</p> <p>20 to come here.</p> <p>21 Q. Before we begin, have you ever been</p> <p>22 deposed before?</p> <p>23 A. No.</p> <p>24 Q. Are you currently under the influence of</p> <p>25 any drugs or alcohol?</p> |
| <p style="text-align: right;">Page 3</p> <p>1 I N D E X</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4 EDIVICT VALENZUELA</p> <p>5</p> <p>6 EXAMINATION BY MR. LURIE 4</p> <p>7</p> <p>8</p> <p>9</p> <p>10 E X H I B I T S</p> <p>11</p> <p>12 NO. DESCRIPTION PAGE</p> <p>13 No exhibits marked</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 5</p> <p>1 A. No.</p> <p>2 Q. Will you able to provide me with true</p> <p>3 and complete answers today?</p> <p>4 A. Yes.</p> <p>5 Q. I'll go over some of the rules. It has</p> <p>6 two things, get you more used to the question and</p> <p>7 answer process and it will also go over how they work</p> <p>8 the deposition.</p> <p>9 A. Okay.</p> <p>10 Q. This is a deposition. While it's in an</p> <p>11 informal setting which is your attorney's office,</p> <p>12 you're here to provide testimony. This testimony is</p> <p>13 the same as if you were testifying in court.</p> <p>14 The court reporter seated to my left and</p> <p>15 your right will be taking down everything we say</p> <p>16 today and will create a transcript which could be</p> <p>17 read in court as though you testified to a statement</p> <p>18 in the transcript. Do you understand?</p> <p>19 A. Yes.</p> <p>20 Q. Now, because this is being recorded by</p> <p>21 the court reporter, it's very important a few</p> <p>22 guidelines are met.</p> <p>23 The first is we do not talk over one</p> <p>24 another. Please allow me to finish my question</p> <p>25 before providing an answer. If you speak at the same</p> |

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| <p style="text-align: right;">Page 6</p> <p>1 time, the reporter cannot keep track of the 2 discussion. Do you understand? 3 A. Yes. 4 Q. Now, in addition, all of your answers 5 must be verbal. That is with words, yes, no. Please 6 not use nonverbal responses such as shaking your head 7 or nodding or using verbal sounds that are not words 8 such as uh-huh or uh-hum. These noises are not 9 translatable properly in the transcript. Do you 10 understand? 11 A. Yes. 12 Q. At times your attorney may object to my 13 question. Most often these are objections to the 14 form of the question. They're largely to preserve 15 the record. You're still required to answer the 16 question if you can. 17 The only time you should not answer my 18 question is if you were specifically directed not to 19 do so. Typically this is because of a legal 20 privilege. It's possible we attorneys may have a 21 brief discussion either within your presence or rare 22 circumstances after you excuse me so we can discuss 23 it outside of your presence. Do you understand? 24 A. Yes. 25 Q. If you cannot provide an answer because</p> | <p style="text-align: right;">Page 8</p> <p>1 A. Okay. 2 Q. Final rule is once we begin, not to 3 speak to your lawyer about anything related to this 4 deposition until the deposition is over. 5 You're under oath when providing 6 testimony. So before we truly begin the questions, 7 have you had an opportunity to speak to your lawyer 8 with respect to this deposition? 9 A. Yes. 10 Q. Do you need any additional time to speak 11 to him before we begin? 12 A. No. 13 Q. Do you have any questions for me before 14 we begin? 15 A. No. 16 Q. Have you reviewed any documents in order 17 to prepare yourself for today? 18 A. Yes. 19 Q. What did you review? 20 A. I reviewed the of the text messages. 21 Q. While I haven't marked it specifically, 22 in front of you is a a stack of papers previously 23 indicated and identified as Stewart-17 in another 24 deposition that has Bates stamp beginning at ST IP 25 003536 ending in Bates stamp ST IP 003673.</p> |
| <p style="text-align: right;">Page 7</p> <p>1 you did not understand the question, let me know. 2 It's very likely I asked you a question which is 3 confusing. We don't want you to be confused. We want 4 you to be able to provide true and complete answers. 5 Do you understand? 6 A. Yes. 7 Q. Also, when answering questions please 8 provide me with a complete response. Okay? 9 A. Yes. 10 Q. If I ask you for something specific, you 11 don't know, you cannot provide me with any 12 information, do not guess. One thing we do not want 13 are any guesses. You can estimate if possible. 14 Also, if you do not know the answer, that's perfectly 15 acceptable as well. 16 Please remember if you provide an 17 answer, we will rely upon your statement so we'll 18 consider your response being you understood the 19 question, that you're being precise and that you are 20 being true, accurate and complete in your responses. 21 If at any time you need to take a break 22 bathroom or any other reason, please let me know. 23 The only rule is if there's a pending question I ask 24 that you finish answering the question and we can 25 take a break.</p> | <p style="text-align: right;">Page 9</p> <p>1 Does this appear to be the same 2 documents that you reviewed? 3 A. Yes. 4 Q. Did you review any other documents? 5 A. Yes. 6 Q. What other documents did you review? 7 A. The recording of the phone interview 8 that we had. 9 Q. You were asked today to bring some 10 additional documents; is that correct? 11 A. I'm not sure, no. 12 MR. SCHUSTER: Just for the record upon 13 receiving request for additional records, these were 14 provided to me and we have them available today. 15 THE WITNESS: I'm sorry. 16 MR. SCHUSTER: We haven't numbered these 17 pages or anything like that other than 18 they're present for today. 19 Q. Now, these are a bunch of e-mails; is 20 that correct? 21 A. Yes. 22 Q. Did you review these e-mails? 23 A. No, not really. 24 Q. Can you just briefly tell me what you 25 did to collect these e-mails that you provided to</p> |

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| <p style="text-align: right;">Page 10</p> <p>1 your attorney?</p> <p>2 A. Yes. I went into my e-mail application</p> <p>3 and I searched for David, all of the the e-mails that</p> <p>4 will come up and then I forward each of the ones that</p> <p>5 I got to my lawyer.</p> <p>6 Q. I want to make sure we're on the same</p> <p>7 page. When you say David, we're talking about David</p> <p>8 Stewart?</p> <p>9 A. Correct.</p> <p>10 Q. Some of these questions are going to</p> <p>11 sound a little bit weird. I apologize. These are</p> <p>12 some of the standard questions attorneys ask at</p> <p>13 depositions.</p> <p>14 Have you ever been convicted of a crime?</p> <p>15 A. No.</p> <p>16 Q. Have you ever been involved in any civil</p> <p>17 lawsuit?</p> <p>18 A. No.</p> <p>19 Q. You were not born in the United States,</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. This is not for what it's going to sound</p> <p>23 like, are you a citizen?</p> <p>24 A. Yes.</p> <p>25 Q. When did you to the United States?</p> | <p style="text-align: right;">Page 12</p> <p>1 Puerto Rico?</p> <p>2 A. Correct.</p> <p>3 Q. What year did you go to Puerto Rico?</p> <p>4 A. 2005.</p> <p>5 Q. Did you go to high school in Puerto</p> <p>6 Rico?</p> <p>7 A. Yes.</p> <p>8 Q. Did you graduate high school in 2008?</p> <p>9 Did you attend college or university?</p> <p>10 A. Yes.</p> <p>11 Q. Where did you attend college or a</p> <p>12 university?</p> <p>13 A. I attend Monroe College in New York.</p> <p>14 Q. Did you graduate?</p> <p>15 A. Yes.</p> <p>16 Q. What year did you graduate?</p> <p>17 A. 2011.</p> <p>18 Q. What degree did you receive?</p> <p>19 A. I received a business administration,</p> <p>20 public accountant.</p> <p>21 Q. Is that a bachelors degree?</p> <p>22 A. Yes.</p> <p>23 Q. After you graduated from Monroe College,</p> <p>24 did you attend any other schooling?</p> <p>25 A. No.</p> |
| <p style="text-align: right;">Page 11</p> <p>1 A. 2006.</p> <p>2 (Discussion off record.)</p> <p>3 Q. Did you attend high school in the United</p> <p>4 States?</p> <p>5 A. Yes.</p> <p>6 Q. What high school did you go to?</p> <p>7 A. Christopher Columbus High School.</p> <p>8 Q. Where is that located?</p> <p>9 A. In the Bronx, New York.</p> <p>10 Q. Where is that located?</p> <p>11 A. I'm not sure. Sorry.</p> <p>12 Q. Did you graduate from high school?</p> <p>13 A. Yes.</p> <p>14 Q. What year did you graduate?</p> <p>15 A. 2008.</p> <p>16 Q. Before coming to the United States in</p> <p>17 2006 where did you reside?</p> <p>18 A. In Puerto Rico.</p> <p>19 Q. So you're Puerto Rican?</p> <p>20 A. No.</p> <p>21 Q. You're not Puerto Rican?</p> <p>22 A. No.</p> <p>23 Q. When are you originally from?</p> <p>24 A. Dominican Republic.</p> <p>25 Q. You went from the Dominican Republic to</p> | <p style="text-align: right;">Page 13</p> <p>1 Q. After you graduated from college were</p> <p>2 you employed?</p> <p>3 A. Yes.</p> <p>4 Q. Were you employed immediately after</p> <p>5 graduation?</p> <p>6 A. Not immediately.</p> <p>7 Q. Approximately how long after you</p> <p>8 graduated was it that you were employed?</p> <p>9 A. I want to say maybe a month.</p> <p>10 Q. So approximately a month after?</p> <p>11 A. Yes, a month after.</p> <p>12 Q. What was the name of the company or</p> <p>13 person that you worked for?</p> <p>14 A. I worked for VIV Car Service.</p> <p>15 Q. V-I-T?</p> <p>16 A. V as in Victor.</p> <p>17 Q. I-P as in Peter, T as in Thomas?</p> <p>18 Q. What was your position at VIP Car</p> <p>19 Service?</p> <p>20 A. I was administrative assistant.</p> <p>21 Q. That was I understand approximately July</p> <p>22 of 2011 that you were employed by them?</p> <p>23 A. No. I finished college in December 2011</p> <p>24 and I got employed. I believe it was in January</p> <p>25 2012.</p> |

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| <p style="text-align: right;">Page 14</p> <p>1 Q. And how long were you with VIP Car 2 Service?</p> <p>3 A. For about three months.</p> <p>4 Q. Where did you go to work after that?</p> <p>5 A. Martinez A & and F Inc.</p> <p>6 Q. What type of business is Martinez A & F?</p> <p>7 A. They rent the cars for taxi drivers.</p> <p>8 Q. Where is that located?</p> <p>9 A. That was also in Bronx.</p> <p>10 Q. Approximately when were you hired by 11 Martinez?</p> <p>12 A. I would say maybe April 2012.</p> <p>13 Q. Approximately how long were you employed 14 by Martinez A & F?</p> <p>15 A. A little over a year.</p> <p>16 Q. Where were you employed after Martinez A 17 & F?</p> <p>18 A. I was employed in Metro PTF.</p> <p>19 Q. What was your job at Metro PTF?</p> <p>20 A. Sales.</p> <p>21 Q. Where was this Metro PTF located?</p> <p>22 A. Also in the Bronx.</p> <p>23 Q. Approximately when were you hired by 24 Metro PTF?</p> <p>25 A. This I don't remember exactly, but I'm</p> | <p style="text-align: right;">Page 16</p> <p>1 since graduating from college in December of 2011?</p> <p>2 A. Not really, no.</p> <p>3 Q. So in approximately November of 2013 he 4 reached out to you?</p> <p>5 A. He reached out to me. Before that I 6 remember I was in Puerto Rico when he called me and 7 my grandmother had passed away and I reached a phone 8 call and he asked me if I knew anybody with an 9 accounting--he remembered I did accounting so he 10 wanted to ask me if I knew anybody for an accounting 11 position with accounting experience.</p> <p>12 Q. Did you have any accounting experience 13 at the time?</p> <p>14 A. No, I didn't.</p> <p>15 Q. Did Mr. Stewart describe anything else 16 about this possible position?</p> <p>17 A. Not at the time. That was the first 18 time he contacted me about a job. He didn't say the 19 name of the company.</p> <p>20 There was a second time when he called 21 me and he might invited me to come over to the office 22 to see what he was doing at that job.</p> <p>23 Q. Did Mr. Stewart tell you at that time 24 what his position was with the business?</p> <p>25 A. I don't recall.</p> |
| <p style="text-align: right;">Page 15</p> <p>1 going to estimate it was maybe August 2013.</p> <p>2 Q. How long were you with Metro PTF?</p> <p>3 A. Approximately three months.</p> <p>4 Q. And where were you employed after that?</p> <p>5 A. After that I was employed in Avatar 6 Technologies.</p> <p>7 Q. Do you recall when you were hired by 8 Avatar Technologies?</p> <p>9 A. November 2013.</p> <p>10 Q. How did you first learn about Avatar 11 Technologies?</p> <p>12 A. I learned through David Stewart.</p> <p>13 Q. Did Mr. Stewart reach out to you or did 14 you reach out to him?</p> <p>15 A. He reached out to me.</p> <p>16 Q. How did you know David Stewart? I want 17 to make a note. I know you've explained a lot of 18 this. Part of the reason these questions is because 19 of the need to have them on the transcript.</p> <p>20 A. I understand.</p> <p>21 Q. How did you meet David Stewart?</p> <p>22 A. We met in college.</p> <p>23 Q. Were you friends or --</p> <p>24 A. He was a friend of a friend of mine.</p> <p>25 Q. Were you in regular contact with him</p> | <p style="text-align: right;">Page 17</p> <p>1 Q. Do you know what Mr. Stewart's position 2 was at the business?</p> <p>3 A. I'm not sure.</p> <p>4 Q. What was your understanding of what 5 Mr. Stewart's position was with the business?</p> <p>6 A. To me he was somewhere close to 7 controller position, definitely some type of 8 management of the finance department of the company.</p> <p>9 Q. To the best of your knowledge did 10 Mr. Stewart have the ability to hire people?</p> <p>11 A. That's what I understood at the time.</p> <p>12 Q. Did you see him hire anybody?</p> <p>13 A. Only me.</p> <p>14 Q. Do you know if Mr. Stewart had the 15 ability to fire anybody?</p> <p>16 A. I'm not sure.</p> <p>17 Q. During the time that you were employed 18 by Avatar, did you ever see Mr. Stewart fire anyone?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Did Mr. Stewart have employees working 21 under him?</p> <p>22 A. Yes.</p> <p>23 Q. How many employees did he have working 24 for him?</p> <p>25 MR. SCHUSTER: Just for the record we're</p> |

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| <p style="text-align: right;">Page 18</p> <p>1 only talking about Avatar Technologies, correct?</p> <p>2 MR. LURIE: That's correct.</p> <p>3 A. Yes. I believe it was probably five or</p> <p>4 six. I'm sorry. This--you're asking me how many</p> <p>5 people he had working for him at a time, correct?</p> <p>6 Q. Yes, at one time.</p> <p>7 A. Okay.</p> <p>8 Q. So he had approximately at most five or</p> <p>9 six people working for him?</p> <p>10 A. Correct.</p> <p>11 Q. You mentioned Avatar Technologies. Are</p> <p>12 you also familiar with the company that's called</p> <p>13 Sales Technologies?</p> <p>14 A. Yes.</p> <p>15 Q. What is your understanding of what Sales</p> <p>16 Technologies was?</p> <p>17 A. Sales Technologies worked closely with</p> <p>18 Avatar Technologies and that's where I got paid from</p> <p>19 also. They rented call center services and air time</p> <p>20 to businesses.</p> <p>21 Q. Are you familiar with a company that's</p> <p>22 called Avatar Technologies Philippines?</p> <p>23 A. No.</p> <p>24 Q. Are you familiar with a company called</p> <p>25 Voiceless Technologies?</p> | <p style="text-align: right;">Page 20</p> <p>1 Q. Who was your direct supervisor?</p> <p>2 A. David Stewart.</p> <p>3 Q. Are you familiar with a person named</p> <p>4 George Kaltner?</p> <p>5 A. Yes.</p> <p>6 Q. Who is George Kaltner?</p> <p>7 A. As of my understanding, he's the owner</p> <p>8 of both Avatar and he was the president of both of</p> <p>9 them as well.</p> <p>10 Q. Do you recall when you first met George</p> <p>11 Kaltner?</p> <p>12 A. I believe so.</p> <p>13 Q. Approximately when did you meet</p> <p>14 Mr. Kaltner?</p> <p>15 A. It was approximately the time that I got</p> <p>16 hired. I think I visited Mr. Stewart at Avatar</p> <p>17 Technologies office about three times. One of those</p> <p>18 times he introduced me to George and then there was a</p> <p>19 phone call that George made to me where he asked me--</p> <p>20 he talked to me with all the people on the phone, all</p> <p>21 the people from the company and he asked me a</p> <p>22 question and welcomed me to the company.</p> <p>23 Q. Do you recall who else was on the call</p> <p>24 that you just mentioned?</p> <p>25 A. Yes. I believe Bria Christian, Julia, I</p> |
| <p style="text-align: right;">Page 19</p> <p>1 A. I think I heard the name before, but I'm</p> <p>2 not familiar with it.</p> <p>3 Q. Are you familiar with a company called</p> <p>4 Avatar Outsourcing?</p> <p>5 A. Yes.</p> <p>6 Q. What is your understanding of what</p> <p>7 Avatar Outsourcing did?</p> <p>8 A. My understanding is that Avatar</p> <p>9 Outsourcing is the name to which Avatar Technologies</p> <p>10 was changed to. It's the same as Avatar</p> <p>11 Technologies.</p> <p>12 Q. Were you still providing services for</p> <p>13 Avatar Technologies when Avatar Outsourcing came into</p> <p>14 existence?</p> <p>15 A. I don't recall.</p> <p>16 Q. But at the time when you were providing</p> <p>17 services you were being paid from Avatar Sales</p> <p>18 Technologies?</p> <p>19 A. Yes.</p> <p>20 Q. What was your position with Sales</p> <p>21 Technologies or Avatar Technologies?</p> <p>22 A. Well, as to my understanding, I was in</p> <p>23 charge of performing different duties within the</p> <p>24 finance department, for example, being customer</p> <p>25 service, accounts receivable.</p> | <p style="text-align: right;">Page 21</p> <p>1 don't recall her last name. I believe Matt I think.</p> <p>2 Q. Matt?</p> <p>3 A. Yes.</p> <p>4 Q. M-a-t-t?</p> <p>5 A. I think that's his name.</p> <p>6 Q. Do you know the last name?</p> <p>7 A. I don't recall. Peter Kefalas, Raudy. I</p> <p>8 think there were more people, but they only say hi to</p> <p>9 me. I don't know exactly. I don't recall exactly</p> <p>10 who else.</p> <p>11 Q. To the best of your understanding who</p> <p>12 was Bria Christian?</p> <p>13 A. At the time that I got hired she was in</p> <p>14 the position I came to work for.</p> <p>15 Q. You were hired. What position did she</p> <p>16 take?</p> <p>17 A. I believe she went to work with George</p> <p>18 directly as I understood. It was something like</p> <p>19 assistant.</p> <p>20 Q. Like a personal assistant?</p> <p>21 A. I'm not sure, but she was working</p> <p>22 closely with him and helping him on different</p> <p>23 projects beside Avatar Technologies.</p> <p>24 Q. This person Julia, do you know what her</p> <p>25 position was?</p> |

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| <p style="text-align: right;">Page 22</p> <p>1 A. She was in charge of marketing, my 2 understanding.</p> <p>3 Q. This individual Matt, what's your 4 understanding of what his position was?</p> <p>5 A. First of all, I want to apologize. I 6 don't remember exactly his name right now. I believe 7 it's Matt. He's the person that was in charge of the 8 IT department.</p> <p>9 Q. Would that be Max?</p> <p>10 A. Max, yes.</p> <p>11 Q. Or Maxium D-a-u-m-k-i-n-e?</p> <p>12 A. Yes. I believe so.</p> <p>13 MR. LURIE: M-a-x-i-u-m D-a-u-m-k-i-n-e, 14 we want to make sure we're all on the same page here.</p> <p>15 Q. To your understanding what was Peter's 16 position with the business?</p> <p>17 A. He was salesperson.</p> <p>18 Q. And what was your understanding of what 19 Raudy's position was?</p> <p>20 A. I believe he worked closely with Max. He 21 was also an IT technician I would say.</p> <p>22 Q. We mentioned you started working 23 approximately November of 2013. How long did you 24 work for Avatar or Sales Technologies?</p> <p>25 A. A little bit over a year.</p> | <p style="text-align: right;">Page 24</p> <p>1 Q. Do you know who made the final decision 2 on hiring you?</p> <p>3 A. I believe so.</p> <p>4 Q. And who do you know who made the 5 decision of hiring you?</p> <p>6 A. George Kaltner.</p> <p>7 Q. At the time that you were hired did you 8 have accounting experience?</p> <p>9 A. No.</p> <p>10 Q. At the time that you were hired did you 11 have experience using Microsoft, Excel?</p> <p>12 A. I would say I had intermediate 13 experience or basic to intermediate.</p> <p>14 Q. After you were hired did you receive any 15 training on how to use Microsoft, Excel?</p> <p>16 A. Yes.</p> <p>17 Q. After you were hired were you trained in 18 any office procedures?</p> <p>19 A. Can you define what you mean by office 20 procedures?</p> <p>21 Q. Sure. My understanding was you were 22 doing billing; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. Did somebody show you how to do the 25 billing?</p> |
| <p style="text-align: right;">Page 23</p> <p>1 Q. Do you recall when you stopped working 2 for them?</p> <p>3 A. I'm sorry. Can I revise that?</p> <p>4 Q. Of course.</p> <p>5 A. I believe almost two years, year and a 6 half. I stopped working around June 2015.</p> <p>7 Q. I'm going to jump around a little bit, 8 backward.</p> <p>9 When you first were contacted by 10 Mr. Stewart, did he ask you about your background and 11 qualifications?</p> <p>12 A. Not in a formal way. He did ask me--I 13 remember him asking me what I knew about certain 14 things, for example, my Excel, Word, how comfortable 15 I felt with basic accounting, if I have seen it, if I 16 had experience with it.</p> <p>17 Q. Am I correct in my understanding, it was 18 Mr. Stewart who was interviewing you?</p> <p>19 MR. SCHUSTER: Object to form. Answer it 20 if you can.</p> <p>21 A. He never formally interviewed me.</p> <p>22 Q. Did anyone formally interview you?</p> <p>23 A. No.</p> <p>24 Q. Was it all an informal process?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">Page 25</p> <p>1 A. Yes.</p> <p>2 Q. Who showed you how to do the billing?</p> <p>3 A. David Stewart.</p> <p>4 Q. You said you were also doing some 5 customer service work, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Who taught you how to do customer 8 service work there?</p> <p>9 A. David Stewart.</p> <p>10 Q. Did David Stewart basically teach you 11 how to do everything for your job?</p> <p>12 A. Yes.</p> <p>13 Q. Did anyone else provide any training to 14 you?</p> <p>15 A. Val I think is his name. He worked with 16 Max.</p> <p>17 Q. What did Val train you on?</p> <p>18 A. This was a project we were doing a 19 little before I left and it had something to do with 20 having some tracking process for the air time I 21 believe.</p> <p>22 Q. What were they training you to do?</p> <p>23 A. He was training me on how to access the 24 different air time totals I believe they're called.</p> <p>25 Excuse me if I'm wrong. I don't remember exactly</p> |

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| <p style="text-align: right;">Page 26</p> <p>1 everything. He was teaching how to access them, how 2 to read them.</p> <p>3 I remember they had-- there was a 4 particular time in the day where they will show how 5 much air time was used and then I would kind of 6 import that information into a spread sheet. I think 7 it's V-a-l, you know who I am talking about?</p> <p>8 Q. Yes.</p> <p>9 A. I think his name is longer, but that's 10 what they used to call him?</p> <p>11 Q. Are you familiar with an individual 12 named Ted Knells?</p> <p>13 A. Yes.</p> <p>14 Q. Who is Ted Knells to the best of your 15 knowledge?</p> <p>16 A. To the best of my knowledge he used to 17 be high official within the company and then he was 18 demoted. His salary was in half. I believe also--I 19 know. That's what I know, who he is.</p> <p>20 Q. You wanted to continue that. What was it 21 that you were going to continue with that?</p> <p>22 A. The only thing I recall knowing about 23 him is that David Stewart used to claim that he was 24 one of the persons that put--David Stewart claimed 25 that Mr. Knells was one of the people that put George</p> | <p style="text-align: right;">Page 28</p> <p>1 Can you elaborate? What did you mean by he was going 2 to sue for what George did to him?</p> <p>3 MR. SCHUSTER: Object to form. Go ahead.</p> <p>4 A. I'm not sure what he meant completely, 5 but to the best of my knowledge he demoted him. He 6 put him in a lower position and cut his salary in 7 half. The way it was explained to me, it looked like 8 it was done in unfair way with no reason to do so. 9 That's all I know about that.</p> <p>10 Q. We'll get back to this as well. I'm 11 trying to not-- what's your understanding of why 12 Mr. Stewart ceased working with Mr. Kaltner's 13 companies?</p> <p>14 A. My understanding at that time or my 15 understanding--</p> <p>16 Q. Your understanding at that time.</p> <p>17 A. At the time my understanding was that 18 different people gossip about David Stewart against-- 19 with Mr. George Kaltner and they--George Kaltner 20 against him. That was my understanding at that time.</p> <p>21 Q. How did you obtain that understanding?</p> <p>22 A. This was what David Stewart told me was 23 going on.</p> <p>24 Q. Now, you said you provided services when 25 you were employed by Sales Technologies or Avatar</p> |
| <p style="text-align: right;">Page 27</p> <p>1 Kaltner against him and also at some point later on 2 they got in communication between each other to get 3 together to sue Mr. Kaltner.</p> <p>4 Q. I will return to this a little bit 5 later.</p> <p>6 How did you come to know that 7 Mr. Stewart and Mr. Knells got together to plan to 8 sue Mr. Kaltner?</p> <p>9 A. Mr. Stewart told me.</p> <p>10 Q. Did he tell you what it was that he 11 planned to sue Mr. Kaltner over?</p> <p>12 A. Honestly, I don't recall if he did.</p> <p>13 Q. It was just we were getting together and 14 trying to come up with a way to sue him?</p> <p>15 A. No.</p> <p>16 MR. SCHUSTER: Object to form.</p> <p>17 Q. You may answer.</p> <p>18 MR. SCHUSTER: Go ahead.</p> <p>19 A. It was something more about along the 20 lines of--I know something with text messages with 21 that which is I'm trying to reference. He was also 22 going to sue him for everything that George did for 23 him and then he stopped hearing, from that then it 24 was something along those lines.</p> <p>25 Q. You just stated what George did to him.</p> | <p style="text-align: right;">Page 29</p> <p>1 Technologies in 2015, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Why did you leave?</p> <p>4 A. I left because there was too many 5 reasons. The first one was I felt it was too much of 6 stressful environment. Sometimes I felt I was back 7 in high school because there was a lot of wrong 8 people, but a lot of gossip and a lot of unstable 9 relationships between companies that made me feel 10 uncomfortable.</p> <p>11 The other reason was I felt that George 12 was being unfair by treating some of his employees 13 like that.</p> <p>14 Q. Which employees do you think were being 15 treated unfairly?</p> <p>16 A. Well, at that moment I thought Mr. David 17 Stewart. I'm not sure what was the situation with 18 Mr. Knells, but at the time it looked like him too 19 was not being treated fairly.</p> <p>20 Although Mr. Stewart established 21 Mr. Knells did not do his job well lately and he 22 probably earned it. I thought the same thing might 23 happen to me into the future if I put all my efforts 24 in working for the company and if something went 25 wrong I would be in the position where I would not be</p> |

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| <p style="text-align: right;">Page 30</p> <p>1 treated right.</p> <p>2 Q. Were there any other employees that you</p> <p>3 believe were being treated unfairly?</p> <p>4 A. Well, not really. The only thing I</p> <p>5 thought was not fair, it was payment wise. Another</p> <p>6 employee, I didn't think that he was being paid the</p> <p>7 right amount of money or good amount of money for the</p> <p>8 work I would see him put into the company.</p> <p>9 Q. Who was that individual?</p> <p>10 A. Alan.</p> <p>11 Q. Do you know Alan's last name?</p> <p>12 A. I believe it's W-e-b-b.</p> <p>13 Q. What was Alan Webb's position?</p> <p>14 A. He used to work with Max. I'm not sure</p> <p>15 what his title was. He used to be in charge of</p> <p>16 everything related on site. If the computers were</p> <p>17 down or servers were down, he would give maintenance</p> <p>18 to the servers. He will back them up. He will follow</p> <p>19 orders from Max.</p> <p>20 Q. Do you recall how much he was getting</p> <p>21 paid?</p> <p>22 A. I don't recall the amount, but I know it</p> <p>23 was less than what I was making at the time and at</p> <p>24 the time I was making, I believe it was something</p> <p>25 between 34 to 36,000 a year.</p> | <p style="text-align: right;">Page 32</p> <p>1 Jason Gentry?</p> <p>2 A. Yes.</p> <p>3 Q. Who is Jason Gentry to the best of your</p> <p>4 knowledge?</p> <p>5 A. To the best of my knowledge Jason Gentry</p> <p>6 was the CFO at some point in the Philippines. He got</p> <p>7 fired. I believe he was put in jail too.</p> <p>8 Q. What's your understanding of why</p> <p>9 Mr. Gentry was fired?</p> <p>10 A. I never had a clear understanding of</p> <p>11 that. I don't know.</p> <p>12 Q. How did you come to learn that</p> <p>13 Mr. Gentry was put in jail?</p> <p>14 A. David Stewart mentioned that to me.</p> <p>15 Q. Do you recall when Mr. Stewart mentioned</p> <p>16 that to you?</p> <p>17 A. I don't recall.</p> <p>18 Q. Was it while you were employed by</p> <p>19 Avatar?</p> <p>20 A. Not that I recall. I believe it was</p> <p>21 after.</p> <p>22 Q. Would it have been within the past year</p> <p>23 that you learned of this?</p> <p>24 A. I believe he mentioned it to me shortly</p> <p>25 after I left, but he might have mentioned it again</p> |
| <p style="text-align: right;">Page 31</p> <p>1 Q. Did you happen to know Mr. Webb's</p> <p>2 background at all?</p> <p>3 A. We spoke about what he did before, but I</p> <p>4 don't recall exactly.</p> <p>5 Q. Do you know how many employees there</p> <p>6 were for Avatar Technologies?</p> <p>7 A. I know we were about maybe between 10</p> <p>8 and 20 in the Mount Vernon office. I don't know what</p> <p>9 the total, but I know in the Philippines there were a</p> <p>10 lot more, maybe a hundred people. I'm guessing.</p> <p>11 MR. SCHUSTER: The instructions were</p> <p>12 don't guess. Give your best estimate. Okay?</p> <p>13 THE WITNESS: Okay.</p> <p>14 Q. That's your best estimate, 100</p> <p>15 employees?</p> <p>16 A. Yes.</p> <p>17 Q. And that's best of your recollection?</p> <p>18 A. Yes.</p> <p>19 Q. Is it your belief that the Avatar</p> <p>20 company in the Philippines was the same company as</p> <p>21 Avatar company in the United States?</p> <p>22 MR. SCHUSTER: Object to form. You can</p> <p>23 answer.</p> <p>24 A. Yes.</p> <p>25 Q. Are you familiar with someone named</p> | <p style="text-align: right;">Page 33</p> <p>1 because maybe I didn't remember about last year.</p> <p>2 Q. What's your understanding of why</p> <p>3 Mr. Gentry went to jail?</p> <p>4 A. Mr. Stewart put it to me. He looked</p> <p>5 like he was sent to jail unfairly by Mr. Kaltner.</p> <p>6 Q. By Mr. Kaltner?</p> <p>7 A. Yes.</p> <p>8 Q. Was Mr. Kaltner a resident of the</p> <p>9 Philippines?</p> <p>10 A. I don't know.</p> <p>11 Q. Did Mr. Kaltner to the best of your</p> <p>12 knowledge work for the government in the Philippines?</p> <p>13 A. Not that I know.</p> <p>14 Q. To the best of your knowledge was</p> <p>15 Mr. Kaltner a judge in the Philippines?</p> <p>16 A. Not that I know.</p> <p>17 Q. Can you explain to me in your own words</p> <p>18 your understanding of how Mr. Kaltner could have</p> <p>19 somebody put in jail?</p> <p>20 MR. SCHUSTER: Object to form. You can</p> <p>21 answer. Go ahead.</p> <p>22 A. There was something going on in the</p> <p>23 Philippines with another company stealing company</p> <p>24 information or another company stealing the companies</p> <p>25 lines. What I believe is that Mr. Stewart tried to</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 make it look like that Jason Gentry.</p> <p>2 Mr. Gentry was being accused. He was</p> <p>3 being put in charge as responsible person in the</p> <p>4 company. I think there was an accusation of him</p> <p>5 having something to do with letting somebody or</p> <p>6 letting company information leak out of the company.</p> <p>7 Q. It's your understanding conveyed to you</p> <p>8 by Mr. Stewart that this resulted in Mr. Gentry being</p> <p>9 put in jail?</p> <p>10 A. Well, again, that's what he said. He</p> <p>11 said he was sent to jail unfairly. I believe it has</p> <p>12 something to do with that situation.</p> <p>13 Q. Did you ever hear of a business called</p> <p>14 Intelacall?</p> <p>15 A. Not that I recall.</p> <p>16 Q. Do you recall hearing about a business</p> <p>17 called Callvation?</p> <p>18 A. Not that I recall.</p> <p>19 Q. Do you recall hearing about a company</p> <p>20 called Surrogate Technologies?</p> <p>21 A. Yes.</p> <p>22 Q. To the best of your knowledge what is</p> <p>23 Surrogate Technologies?</p> <p>24 A. They are a company that were stealing</p> <p>25 George's clients and they were selling them the same</p> | <p style="text-align: right;">Page 36</p> <p>1 United States?</p> <p>2 A. No.</p> <p>3 Q. Were you aware at the time of Sales</p> <p>4 Technologies business structure? If you don't</p> <p>5 understand what I mean, please tell me you don't</p> <p>6 understand.</p> <p>7 A. I don't understand what you mean.</p> <p>8 Q. We talked about a bunch of companies,</p> <p>9 Sales Technologies, Avatar Technologies, Avatar</p> <p>10 Technologies in the Philippines, eventually Avatar</p> <p>11 Outsourcing.</p> <p>12 Did you have any specific knowledge of</p> <p>13 how all these businesses were related?</p> <p>14 A. No.</p> <p>15 Q. Did you ever receive a paycheck from any</p> <p>16 business in the Philippines?</p> <p>17 A. Yes.</p> <p>18 Q. What business in the Philippines did you</p> <p>19 receive a paycheck from?</p> <p>20 A. Avatar Technologies.</p> <p>21 Q. Avatar Technologies in the Philippines</p> <p>22 or Avatar Technologies?</p> <p>23 A. Well, the money came from the bank from</p> <p>24 the Philippines.</p> <p>25 Q. Do you recall what bank that was?</p> |
| <p style="text-align: right;">Page 35</p> <p>1 services as Avatar Technologies did.</p> <p>2 Q. Were you in any way involved in the</p> <p>3 litigation with Surrogate Technologies in the</p> <p>4 Philippines?</p> <p>5 MR. SCHUSTER: Object to form. You can</p> <p>6 answer if you can.</p> <p>7 A. No, not that I recall.</p> <p>8 Q. Beyond doing the billing and customer</p> <p>9 services, some of these other tasks for the business,</p> <p>10 was there any other--were you in management for</p> <p>11 Avatar Technologies?</p> <p>12 MR. SCHUSTER: Object to form. You can</p> <p>13 answer if you can.</p> <p>14 A. I'm not sure.</p> <p>15 Q. Do you believe that you were manager for</p> <p>16 Avatar Technologies?</p> <p>17 A. I don't believe so.</p> <p>18 Q. Do you believe that you were in</p> <p>19 management for Sales Technologies?</p> <p>20 A. Yes.</p> <p>21 Q. Did you have people who worked for you?</p> <p>22 A. I had people that assisted me.</p> <p>23 Q. Who was that that assisted you?</p> <p>24 A. It was A-g-r-a-i-n, Kenneth and Katrina.</p> <p>25 Q. Did any of these individuals in the</p> | <p style="text-align: right;">Page 37</p> <p>1 A. No.</p> <p>2 Q. Was it Metro Bank?</p> <p>3 A. I don't know.</p> <p>4 Q. Did that become your primary source of</p> <p>5 where you received your payment at any point?</p> <p>6 A. No.</p> <p>7 Q. Just additional checks that you received</p> <p>8 that came from this company in the Philippines?</p> <p>9 A. No.</p> <p>10 Q. Can you explain to me how it was that</p> <p>11 you received paychecks from this business in the</p> <p>12 Philippines?</p> <p>13 MR. SCHUSTER: Objection to form.</p> <p>14 A. I received these payments. When I first</p> <p>15 started payroll was not yet established in the Mount</p> <p>16 Vernon office so I received my first paycheck from</p> <p>17 the Philippines.</p> <p>18 Q. Who set up the payroll in the United</p> <p>19 States?</p> <p>20 A. I believe it was David Stewart and I</p> <p>21 believe there was someone else, but I don't recall</p> <p>22 who it was.</p> <p>23 Q. Do you remember if it was a man or</p> <p>24 woman?</p> <p>25 A. No. I think one of the external</p> |

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| <p style="text-align: right;">Page 38</p> <p>1 companies that provided services for George, maybe 2 the accounting firm. 3 Q. Beside yourself, do you know if David 4 Stewart recruited any other people to work for either 5 Avatar or Sales Technologies? 6 A. I believe he recruited some of the 7 employees in the Philippines. 8 Q. Were these people who worked in the 9 payroll department in the Philippines or billing 10 department in the Philippines? 11 A. They were the accountants. That's what 12 he described them as. 13 Q. Do you remember any of their names? 14 A. Yes. 15 Q. What were their names? 16 A. K-i-r-b-y, Jennufer, same as Jennifer 17 with a U. 18 Q. Did Kirby and Jennifer report to 19 Mr. Stewart to the best of your knowledge? 20 A. Yes. 21 Q. To the best of your knowledge was David 22 Stewart ever George Kaltner's personal assistant? 23 A. I'm not sure. There was a time in 24 between the process of his demotion where he appeared 25 to me that he was for a short period of time. He was</p> | <p style="text-align: right;">Page 40</p> <p>1 being so focused on his job because he was basically 2 having intimate relationships with different women in 3 the Philippines. 4 Q. Are you able to elaborate on that at 5 all? 6 A. I don't understand what you mean. 7 Q. Do you know if Mr. Stewart took any 8 women from the Philippines on a team building event? 9 A. Not that I recall. I don't recall. 10 Q. Do you recall Mr. Stewart asking for 11 reimbursement for any events while he was in the 12 Philippines? 13 A. I don't recall. 14 Q. Were you involved when an employee or 15 agent would ask for reimbursement? 16 A. I don't believe so. 17 Q. I'm jumping around a little bit. Do you 18 know who brought Bria to the company? 19 A. Yes. 20 Q. Who brought Bria to the company? 21 A. It was David Stewart. 22 Q. How do you know she was brought to the 23 company by Mr. Stewart? 24 A. Well, what I learned from Mr. Stewart is 25 that she also had an accounting degree, then he met</p> |
| <p style="text-align: right;">Page 39</p> <p>1 changed around two or three times. 2 Q. Approximately when was this period of 3 time that you're referencing? 4 A. I believe it was 2015. I'm not sure 5 about which month. 6 Q. Let me jump to that time frame. You 7 mentioned that David Stewart appeared to be demoted; 8 is that how you referenced it? 9 A. Yes. 10 Q. What's your understanding of the reason 11 why David Stewart was demoted? 12 A. Well, like I said before, my 13 understanding at the time was because a couple of 14 people got together against him and they spread 15 rumors and gossip so they went to George and gossiped 16 against him. 17 Q. This was Ted Knells you said? 18 A. Ted Knells and what David had told me 19 before, Mr. Oscar Razzouk. 20 Q. And it was Mr. Stewart who told you this 21 was what happened? 22 A. Yes. 23 Q. Do you know what the rumors or gossip 24 was that was going around the office? 25 A. Well, they were talking about him not</p> | <p style="text-align: right;">Page 41</p> <p>1 her at her job, at her previous job. I'm not sure 2 how the process evolved. He told me that she was 3 working there because of him so I understood that he 4 brought her in. 5 Q. This is a very weird question. Did 6 David Stewart ask you to cook him lunch ever? 7 A. Not really I would say. 8 Q. What do you mean by not really? 9 A. Well, Mr. Stewart often give me a ride 10 to work. We had a kitchen. I thought as a nice way 11 to pay him back by fixing him lunch. Maybe at some 12 point, I don't know if he got used to it or not, but 13 he would often times--I live in the Bronx. I did it 14 for him. He might have been after I implemented 15 that. That's why I don't want to say he brought it 16 up first. 17 Q. Do you recall Mr. Kaltner ever 18 reprimanding Mr. Stewart for having you to prepare 19 lunches at work? 20 A. Maybe he mentioned something once, but 21 he didn't really get in between. 22 Q. Do you recall Mr. Stewart ordering food 23 for the office? 24 A. Yes. 25 MR. SCHUSTER: Object.</p> |

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| <p style="text-align: right;">Page 42</p> <p>1 Q. Do you have any recollection of</p> <p>2 Mr. Kaltner reprimanded Mr. Stewart for ordering food</p> <p>3 at the office?</p> <p>4 A. I don't have a recollection of</p> <p>5 witnessing Mr. Kaltner doing that, but David said</p> <p>6 that he did.</p> <p>7 Q. Do you have any knowledge of what that</p> <p>8 whole situation was about, the ordering of food for</p> <p>9 the office?</p> <p>10 MR. SCHUSTER: Object to form. If you</p> <p>11 can answer go ahead.</p> <p>12 A. This is confusing to me. What I</p> <p>13 learned, Mr. Stewart, there was an issue with him</p> <p>14 ordering shrimp and salmon.</p> <p>15 Q. Do you know if there was a cleaning</p> <p>16 service for the Mount Vernon office?</p> <p>17 A. Yes.</p> <p>18 Q. Was Mr. Stewart the cleaning service for</p> <p>19 the Mount Vernon office?</p> <p>20 A. No.</p> <p>21 Q. Did Mr. Stewart ever tell you that he</p> <p>22 was an employee?</p> <p>23 MR. SCHUSTER: Object to form. Employee</p> <p>24 of who?</p> <p>25 Q. I'll clarify this. Do you know if</p> | <p style="text-align: right;">Page 44</p> <p>1 things easier please read back the last question.</p> <p>2 (Reporter reads back.)</p> <p>3 Q. Were you working in payroll for Sales</p> <p>4 Technologies?</p> <p>5 A. Partially.</p> <p>6 Q. When you say partially what does that</p> <p>7 mean?</p> <p>8 A. We had an external payroll company do</p> <p>9 payroll. I assisted in the payroll process. I</p> <p>10 contacted when I had a question or whenever, I had to</p> <p>11 understand the charges the payroll company incurred.</p> <p>12 At first there was some things in regard to adjusting</p> <p>13 pay period that --</p> <p>14 Q. Did you also have the same</p> <p>15 responsibility with Avatar Technologies?</p> <p>16 A. I don't recall exactly. I want to say</p> <p>17 like most of anything has to do with both companies.</p> <p>18 I remember I added new employees to the payroll.</p> <p>19 Q. Have you ever heard of an entity called</p> <p>20 DAVIDTPO, LLC?</p> <p>21 A. Yes.</p> <p>22 Q. To the best of your knowledge what is</p> <p>23 DAVIDTPO, LLC?</p> <p>24 A. To the best of my knowledge this is a</p> <p>25 company that was set up for David Stewart so he could</p> |
| <p style="text-align: right;">Page 43</p> <p>1 Mr. Stewart was employed by Sales Technologies?</p> <p>2 A. I know he was working for both</p> <p>3 companies.</p> <p>4 Q. Were you involved in payroll?</p> <p>5 A. Partially.</p> <p>6 MR. SCHUSTER: I want to make sure we're</p> <p>7 clear which entity we're talking about. Sometimes</p> <p>8 it's not clear. We're talking about the whole</p> <p>9 company or different parts of the entities involved</p> <p>10 in this whole corporate universe.</p> <p>11 MR. LURIE: Off record.</p> <p>12 (Discussion off record.)</p> <p>13 MR. LURIE: I apologize. We went off the</p> <p>14 record for a moment. Your attorney and I had a brief</p> <p>15 discussion. Part of the reason why is because some</p> <p>16 of the questions that have been coming to you are</p> <p>17 things that you may or may not understand how the</p> <p>18 business was set up.</p> <p>19 I have been somewhat deliberately vague</p> <p>20 about some of the questions because I don't know if</p> <p>21 you know the answer to some of these business</p> <p>22 questions and I don't want to put into your mind and</p> <p>23 allow you to answer to the best of your knowledge.</p> <p>24 Let me step back a little bit.</p> <p>25 Q. We were just talking about--to make</p> | <p style="text-align: right;">Page 45</p> <p>1 get his paychecks through the company.</p> <p>2 Q. Do you have any knowledge about who set</p> <p>3 up DAVIDTPO, LLC?</p> <p>4 A. The only knowledge I have is what Mr.</p> <p>5 Stewart told me.</p> <p>6 Q. What did Mr. Stewart tell you?</p> <p>7 A. That Mr. George Kaltner set up the</p> <p>8 company for him.</p> <p>9 Q. Approximately when did Mr. Stewart tell</p> <p>10 this to you?</p> <p>11 A. Around the time that I started working</p> <p>12 for Avatar. There was some rumors that I too was</p> <p>13 probably going to get a company set up for myself</p> <p>14 because they didn't have payroll back then. That's</p> <p>15 how they were paying employees at the time.</p> <p>16 Q. So it's your understanding that back in</p> <p>17 approximately November of 2013 there was a payroll</p> <p>18 service set up?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know, you mentioned a company was</p> <p>21 providing the outside payroll services. Do you</p> <p>22 recall which company that was?</p> <p>23 A. I believe the name of the company,</p> <p>24 Paychex.</p> <p>25 Q. Paychex with the X at the end of it?</p> |

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| <p style="text-align: right;">Page 46</p> <p>1 A. Yes.</p> <p>2 Q. Do you recall if Mr. Stewart had set</p> <p>3 hours he was in the office?</p> <p>4 A. Can you repeat the question?</p> <p>5 Q. Do you recall Mr. Stewart having set</p> <p>6 hours that he was always in the Mount Vernon office?</p> <p>7 A. I have an idea.</p> <p>8 Q. And what is your idea?</p> <p>9 A. I remember he was always there early,</p> <p>10 sometimes the first person to be there, maybe 8:00,</p> <p>11 7:30, 8:00 in the morning. Sometimes I will come to</p> <p>12 the office with him. He would give me a ride also so</p> <p>13 I too would be there early and we get to work sooner.</p> <p>14 I would go.</p> <p>15 He would leave late. Sometimes I would</p> <p>16 leave earlier. He would stay I would say the</p> <p>17 earliest time that I know he was there was maybe</p> <p>18 6:00, sometimes 7:00. The first because I was new</p> <p>19 and in training there was even one day we stayed in</p> <p>20 the office until 9:00. That was one day. The other</p> <p>21 days 7:00, 7:30, 6:00. Toward the end, of course, he</p> <p>22 started leaving earlier toward the end of his time in</p> <p>23 the company.</p> <p>24 Q. Sitting here today what is your</p> <p>25 understanding of why Mr. Stewart no longer provided</p> | <p style="text-align: right;">Page 48</p> <p>1 A. Yes.</p> <p>2 MR. SCHUSTER: Object to form.</p> <p>3 Q. Who was in charge of insuring payment if</p> <p>4 you know?</p> <p>5 A. I don't understand it.</p> <p>6 Q. Were there salespeople for Avatar</p> <p>7 Technologies?</p> <p>8 A. Yes.</p> <p>9 Q. Were there salespeople for Sales</p> <p>10 Technologies?</p> <p>11 A. Yes.</p> <p>12 Q. Were they paid a commission?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know how that calculated, how</p> <p>15 much commission to pay these people?</p> <p>16 A. I don't know exactly how. I know there</p> <p>17 was a formula that I believe Mr. Kaltner established</p> <p>18 and we were to follow by the formula and verify with</p> <p>19 Mr. Kaltner before commission was paid.</p> <p>20 Q. Did Mr. Stewart do those calculations?</p> <p>21 A. At some point I think he did.</p> <p>22 Q. Did Mr. Kaltner ever ask you to withdraw</p> <p>23 any cash from the checking accounts?</p> <p>24 A. No, not that I recall.</p> <p>25 Q. Did you have access to the books to</p> |
| <p style="text-align: right;">Page 47</p> <p>1 services for Sales Technologies and Avatar</p> <p>2 Technologies?</p> <p>3 A. Sitting here today I believe there is a</p> <p>4 little bit of both. What I mentioned before, gossip</p> <p>5 and rumors. People trying to make him look bad and</p> <p>6 also I believe there has to be something about his</p> <p>7 performance in regard to whatever when he was sent to</p> <p>8 the Philippines. I believe there was something about</p> <p>9 his job that he didn't make George happy with how he</p> <p>10 performed.</p> <p>11 Q. What's your understanding of why</p> <p>12 Mr. Stewart went to the Philippines?</p> <p>13 A. He went there to do an audit for a new</p> <p>14 company at that time called Rainbow Slushy.</p> <p>15 Q. Do you know if Mr. Stewart performed the</p> <p>16 audit for Rainbow Slushy?</p> <p>17 A. I believe he did.</p> <p>18 Q. Did you ever see the audit for Rainbow</p> <p>19 Slushy?</p> <p>20 A. No.</p> <p>21 Q. What makes you believe that he did do</p> <p>22 the audit for Rainbow Slushy?</p> <p>23 A. I never heard otherwise in the company.</p> <p>24 Q. Were you involved in commission</p> <p>25 payments?</p> | <p style="text-align: right;">Page 49</p> <p>1 Sales Technologies?</p> <p>2 MR. SCHUSTER: Objection to form.</p> <p>3 Q. I'll clarify that. When I say books,</p> <p>4 the financial records for Sales Technologies?</p> <p>5 A. I have partial access.</p> <p>6 Q. Were you able to view the checking</p> <p>7 accounts?</p> <p>8 A. Yes.</p> <p>9 Q. Did you have access to view the checking</p> <p>10 account statements for Avatar Technologies?</p> <p>11 A. Yes.</p> <p>12 Q. Do you ever recall seeing large cash</p> <p>13 withdrawal from any checking account for Sales</p> <p>14 Technologies or Avatar Technologies?</p> <p>15 MR. SCHUSTER: Objection to form. What</p> <p>16 do you mean by large?</p> <p>17 Q. Let me ask you this, if you saw a</p> <p>18 withdrawal for 10,000 dollars in cash from a checking</p> <p>19 account, do you believe that's a large amount of</p> <p>20 money?</p> <p>21 A. Yes.</p> <p>22 Q. Do you recall ever seeing a cash</p> <p>23 withdrawal for 10,000 dollars?</p> <p>24 A. When you say withdrawal, you're not</p> <p>25 including transfers.</p> |

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| <p style="text-align: right;">Page 50</p> <p>1 Q. Not transfers, cash.</p> <p>2 A. I don't recall.</p> <p>3 Q. Do you recall at any time Mr. Kaltner</p> <p>4 directing that Mr. Stewart bring an amount of cash to</p> <p>5 the Philippines?</p> <p>6 A. I don't recall that.</p> <p>7 Q. You don't think he ever did?</p> <p>8 A. I don't think he did.</p> <p>9 Q. Do you recall Mr. Stewart going to the</p> <p>10 Philippines any time?</p> <p>11 A. Yes.</p> <p>12 Q. How many times do you recall Mr. Stewart</p> <p>13 going to the Philippines while you were employed by</p> <p>14 Sales Technologies or Avatar Technologies?</p> <p>15 A. I don't know the exact amount of times,</p> <p>16 but I'm going to estimate between two to three times.</p> <p>17 Q. You mentioned one of those times was to</p> <p>18 do an audit for Rainbow Slushy; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know the reason that he went the</p> <p>21 other one or two times?</p> <p>22 A. I don't recall.</p> <p>23 Q. Did Sales Technologies and/or Avatar</p> <p>24 Technologies have an accounting firm they used in the</p> <p>25 United States?</p> | <p style="text-align: right;">Page 52</p> <p>1 A. To the best of my knowledge I think so.</p> <p>2 Q. Were there e-mails with Mr. Sasserath,</p> <p>3 to the best of your recollection was Mr. Stewart also</p> <p>4 on those e-mails?</p> <p>5 A. I don't recall. I'm sorry. Pertaining</p> <p>6 to your last question, Mr. Stewart was oftentimes</p> <p>7 included in I would say most of the e-mails I was</p> <p>8 included in.</p> <p>9 Q. That's with the accountants?</p> <p>10 A. I'm talking about overall, everything.</p> <p>11 Of course, shortly before he was let go of the</p> <p>12 company.</p> <p>13 Q. That's because he was your supervisor?</p> <p>14 A. Yes.</p> <p>15 Q. Forgetting about Mr. Stewart or any</p> <p>16 rumors that you heard, did you have any issues with</p> <p>17 Mr. Kaltner personally?</p> <p>18 A. No.</p> <p>19 Q. Do you believe he treated you fairly?</p> <p>20 A. Yes.</p> <p>21 Q. We're going to get to the text messages.</p> <p>22 I'm sure that's what you expect.</p> <p>23 Beside these text messages, did you have</p> <p>24 any conversations with Mr. Stewart after he stopped</p> <p>25 providing services where you discussed Ted Knells?</p> |
| <p style="text-align: right;">Page 51</p> <p>1 A. Yes.</p> <p>2 Q. Do you recall the name of that</p> <p>3 accounting firm?</p> <p>4 A. I don't recall.</p> <p>5 Q. To the best of your knowledge did</p> <p>6 Mr. Stewart work with the accounting firm?</p> <p>7 A. Not that I recall.</p> <p>8 Q. To the best of your knowledge was</p> <p>9 Mr. Stewart in contact with the accounting firm?</p> <p>10 A. Probably, yes.</p> <p>11 Q. Did you ever meet any of the</p> <p>12 accountants?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall the name of the accountant</p> <p>15 that you met?</p> <p>16 A. Not at the moment.</p> <p>17 Q. Does the name Alan Sasserath mean</p> <p>18 anything to you?</p> <p>19 A. Yes.</p> <p>20 Q. Did you ever meet Mr. Sasserath?</p> <p>21 A. Yes.</p> <p>22 Q. Did you have e-mails with Mr. Sasserath?</p> <p>23 A. I believe so.</p> <p>24 Q. Did Mr. Stewart to the best of your</p> <p>25 knowledge have e-mails with Mr. Sasserath?</p> | <p style="text-align: right;">Page 53</p> <p>1 A. Outside of the text messages?</p> <p>2 Q. Yes.</p> <p>3 A. Specifically about Mr. Ted Knells, not</p> <p>4 that I recall.</p> <p>5 Q. Did you have any discussions with</p> <p>6 Mr. Stewart seeing him telephonically, in person not</p> <p>7 with text messages about Jason Gentry?</p> <p>8 A. Yes.</p> <p>9 Q. What were the discussions that you had</p> <p>10 with Mr. Stewart regarding Mr. Gentry?</p> <p>11 A. It was basically the same, repetitive</p> <p>12 comment. Mr. Stewart summarizing things that George</p> <p>13 did to some of his employees unfairly and he gave</p> <p>14 Mr. Gentry as an example of how he was treated</p> <p>15 unfairly and because of accusations against him he</p> <p>16 was sent to jail.</p> <p>17 Q. False accusations against him?</p> <p>18 A. According to Mr. Stewart, he claimed</p> <p>19 that had something to do with information was leaked</p> <p>20 to this other company that was stealing George's</p> <p>21 clients.</p> <p>22 Q. Mr. Stewart ever mention to you that</p> <p>23 Mr. Gentry was in the Philippines illegally?</p> <p>24 A. Not that I recall.</p> <p>25 Q. Mr. Stewart ever mention to you</p> |

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| <p style="text-align: right;">Page 54</p> <p>1 Mr. Gentry did not have a work Visa for the 2 Philippines? 3 A. He did mention something about a work 4 Visa, but honestly I don't recall what he said. 5 Q. Do you have any personal knowledge of 6 why Mr. Gentry was arrested? 7 A. To be honest with you, I don't know. 8 Q. Did Mr. Stewart ever talk to you about 9 how he was working with Mr. Gentry on creating a 10 lawsuit against Mr. Kaltner? 11 A. He spoke a little bit of it. He said 12 Mr. Gentry was also suing George or that he was going 13 to be suing him separately. 14 Q. Did Mr. Stewart tell you what the 15 lawsuit was that Mr. Gentry was going to file? 16 A. He did mention legal terms that I 17 honestly don't think I understood and I don't 18 remember them. 19 Q. Do you recall when this took place? 20 A. No. 21 Q. Now, I believe relatively recently you 22 had discussion with Mr. Stewart's lawyer. Prior to 23 2018 had you ever heard of Mr. Stewart's lawyer, 24 Jacob Chen? 25 A. No.</p> | <p style="text-align: right;">Page 56</p> <p>1 Mr. Stewart? 2 A. Around the same week that I received the 3 letter, April. 4 Q. So that would have been approximately 5 beginning of April; sound about accurate? 6 A. Yes. 7 Q. What did you tell Mr. Stewart when you 8 called him? 9 A. I told him I received a phone call from 10 Mr. Kaltner and I also received a letter from his 11 lawyer. I read the letter to him and I told him I 12 read the letter to Mr. Stewart and I also told him a 13 little bit of the phone call that I received from 14 George. 15 Q. What did you tell him with respect to 16 the phone call that you had with Mr. Kaltner? 17 A. That he called me when I was at work and 18 spoke with me for about 20 minutes and he told me a 19 lot of things that he was upset. He said I broke a 20 law and that I could get in trouble for that, I got 21 myself involved in this, some of those things he 22 mentioned. 23 Q. Do you know what law it was Mr. Kaltner 24 claimed you broke? 25 A. He mentioned it, but I don't recall.</p> |
| <p style="text-align: right;">Page 55</p> <p>1 Q. Did Mr. Stewart ever talk to you about 2 any of the lawsuits that he was involved in? 3 A. Yes. 4 Q. To the best of your recollection what 5 did he tell you about these lawsuits? 6 A. I remember he said something about 7 employment lawsuit that I believe he said he won. The 8 most recent lawsuit was he was working on was a 9 labor, New York Labor case, something to do with 10 breach of labor at law from George. He mentioned 11 another project, but he never mentioned what that 12 was. I didn't ask him. 13 Q. At some point you received a letter, 14 correct? 15 A. Yes. 16 Q. After you received that letter did you 17 contact Mr. Stewart? 18 A. Yes. 19 Q. Can you tell me how you contacted 20 Mr. Stewart? 21 A. I contacted Mr. Stewart via telephone 22 call. 23 Q. You called him? 24 A. I called him. 25 Q. Do you recall when it was you called</p> | <p style="text-align: right;">Page 57</p> <p>1 Q. Then you told that to Mr. Stewart, 2 correct? 3 A. Yes. 4 Q. What did Mr. Stewart say? 5 A. He said not to worry about it, that he 6 was trying to intimidate me. I didn't do anything 7 wrong, how was I going to be in trouble. I asked him 8 if he should tell me why would I be in trouble, you 9 guys were pressing accusations against me in the 10 letter, that I didn't understand why you had that 11 idea. 12 I also told Mr. Stewart that you guys 13 had a copy of the text messages and I think he said 14 that's false, that's not true. Mr. Kaltner read some 15 of those written text messages to me so I know he had 16 the text messages, but I didn't recall a lot of the 17 content of the text messages. 18 I thought maybe if I could talk to 19 Mr. Stewart, I would get insight of what happened 20 that made you guys under the impression I was working 21 with him against Mr. George. 22 Q. What else did you discuss on this call? 23 MR. SCHUSTER: This is the Stewart call? 24 Q. We're talking about the call with Mr. 25 Stewart at this point.</p> |

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| <p style="text-align: right;">Page 58</p> <p>1 A. From what I can recall, I told him that 2 I was going to--he was joking around saying that he 3 will pay for my lawyer. He was laughing when he said 4 that. Well, you might be joking, but I am planning 5 to get legal counsel. 6 (A discussion is held off the record.) 7 A. I told him even if he was not taking it 8 seriously, he told me I always worry about 9 everything, when was I going to stop worrying and I 10 said well, this letter from lawyers, I do plan on 11 seeking legal counsel. 12 So he said okay, if you really want to 13 speak to a lawyer, you can speak to my lawyer if you 14 want, he will advise you for free. There was nothing 15 that--there was nothing wrong that I said. They just 16 trying to intimidate you. There is the transcript of 17 what I said in court. It's public record. You could 18 have access to it if you want. There's the copy of 19 the text messages I have to give them to court to 20 prove that I did not plan to do harm to George and 21 you can also have access to that as well. You can 22 ask my lawyer for it. I said sure, I would like to 23 see them because I don't remember. 24 Q. Did you discuss anything else with 25 Mr. Stewart at that time?</p> | <p style="text-align: right;">Page 60</p> <p>1 name. 2 Q. Do you know if he's married to her? 3 A. Legally married, I don't know. 4 Q. Are you in regular contact with Yoladi 5 Espinosa? 6 A. No. 7 Q. Did you call her to get that information 8 or did she call you? How did that come about? 9 A. We text. 10 Q. You were texting with her? 11 A. Yes. 12 Q. Did you regularly text with Yoladi? 13 A. No. 14 Q. Prior to texting to get the information 15 for the lawyer, did you have any conversations or 16 texts with Yoladi? 17 A. Yes. 18 Q. Any of those conversations did you 19 discuss any of these lawsuits that Mr. Stewart was 20 involved in? 21 A. No. 22 Q. Were your discussions with Yoladi 23 basically limited to pleasantries, things friendly 24 back and forth? 25 A. No. I contacted her after I received</p> |
| <p style="text-align: right;">Page 59</p> <p>1 A. If I did, it was around the same subject 2 we were talking about. I'm sorry. I asked him what 3 was the lawsuit about even though he had mentioned 4 some of this to me. At the time I didn't remember. 5 Sometimes we stop talking for a short period of time. 6 He told me about the New Jersey labor case. That's 7 what he told me again. I think he had three 8 lawsuits, that the ones that he made against George 9 and then counter lawsuits. I believe that's about 10 what I remember. 11 Q. Subsequent to your call with 12 Mr. Stewart, did you exchange any text messages with 13 him? 14 MR. SCHUSTER: This is the call about the 15 lawsuit. 16 MR. LURIE: After the letter she called 17 Mr. Stewart. Still we're talking just about that 18 call in early April of this year. 19 A. Not that I recall. 20 Q. How did Mr. Stewart provide you with his 21 lawyer's contact information? 22 A. I asked his wife for his wife's phone 23 number. 24 Q. Who is Mr. Stewart's wife? 25 A. Yoladi Espinosa I believe is her last</p> | <p style="text-align: right;">Page 61</p> <p>1 the letter to tell her I needed to speak with her 2 husband and to let me know when he was available at 3 home so we could speak. 4 Q. So you received the lawyer's 5 information. What did you do next? 6 A. We set up a call, conference call. 7 Q. Who was on the conference call? 8 A. He was. I told him about the letter. I 9 read it to him. I told him about the phone call. I 10 didn't tell him as much details as I did with 11 Mr. Stewart, but I told him I would take the phone 12 call. That was about what I told him initially. 13 Q. Other than asking him for any legal 14 advice, did you discuss, did you tell Mr. Chen any 15 facts about your time working for Avatar Technologies 16 or Sales Technologies? 17 A. What do you mean by facts? 18 Q. Did you talk to Mr. Chen about who you 19 were employed by? 20 A. Yes. 21 Q. Did you tell him--I mean with respect to 22 my clients, but who you were employed by, you told 23 him that? 24 A. Yes. 25 Q. Did you tell him what your hours were</p> |

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| <p style="text-align: right;">Page 62</p> <p>1 that you worked?</p> <p>2 A. Yes.</p> <p>3 Q. What you tell him your hours were that</p> <p>4 you worked?</p> <p>5 A. I told him I didn't remember exactly. I</p> <p>6 didn't keep records. He asked me something about if</p> <p>7 there were any systems in the office to record the</p> <p>8 hours everybody worked and I said no system to record</p> <p>9 that. I personally didn't record them. I told him</p> <p>10 what I think. I worked at the time on the phone. I</p> <p>11 was guessing. This was a short period of the</p> <p>12 conversation devoted to that subject. I didn't</p> <p>13 elaborate too much.</p> <p>14 Q. Other than discussing my letter to you,</p> <p>15 did you discuss Mr. Stewart's case?</p> <p>16 A. He mentioned some details of the case,</p> <p>17 but he didn't say much because I guess he had his own</p> <p>18 client and privilege with Mr. Stewart and he didn't</p> <p>19 want to discuss a lot of things of the case with me</p> <p>20 unless I came to party of the case.</p> <p>21 Q. So my understanding then is Mr. Chen was</p> <p>22 unwilling to provide a lot of information about the</p> <p>23 case unless you --</p> <p>24 A. Not exactly like that, but that was my</p> <p>25 understanding. He did not say I'm not providing it to</p> | <p style="text-align: right;">Page 64</p> <p>1 for George and that George already said in court he</p> <p>2 did not have any records of the time. Somehow that</p> <p>3 gave Mr. Stewart the leeway to have the case because</p> <p>4 he had his records, a lot of overtime was owed to</p> <p>5 him.</p> <p>6 Q. Did Mr. Chen tell you he had records of</p> <p>7 Mr. Stewart's time that he was working for</p> <p>8 Mr. Kaltner?</p> <p>9 A. Not exactly. I understood that</p> <p>10 Mr. Stewart had records, but he didn't explicitly say</p> <p>11 that I recall if he had. I didn't ask him any</p> <p>12 questions. He just elaborated so I could understand.</p> <p>13 Q. When you called Mr. Chen, were you</p> <p>14 looking for a labor attorney?</p> <p>15 A. No.</p> <p>16 Q. Did you raise issues with him about</p> <p>17 having issues with your employment with Avatar</p> <p>18 Technologies or Sales Technologies?</p> <p>19 A. No.</p> <p>20 Q. So the issue of this labor law he</p> <p>21 brought to your attention?</p> <p>22 A. He put it as an option on the table as</p> <p>23 part of his advice on things I could do in regard to</p> <p>24 the letter. He explained to me how in the State of</p> <p>25 New York basically anybody could sue anybody for</p> |
| <p style="text-align: right;">Page 63</p> <p>1 you unless you join. He just said I can't provide</p> <p>2 legal to you because I have my client, Mr. Stewart.</p> <p>3 On the other hand, if you were to decide to join,</p> <p>4 that's-- I could fill you in.</p> <p>5 Q. What information did he provide to you?</p> <p>6 MR. SCHUSTER: Mr. Chen we're talking</p> <p>7 about now?</p> <p>8 MR. LURIE: Mr. Chen, yes.</p> <p>9 Q. Not about advice, not a request for</p> <p>10 advice or advice provided to you, but what he told</p> <p>11 you was the David Stewart lawsuits?</p> <p>12 MR. SCHUSTER: Talking about the facts,</p> <p>13 no.</p> <p>14 Q. Just facts.</p> <p>15 A. I'm going to try to remember</p> <p>16 understanding Mr. Stewart was claiming or he was</p> <p>17 suing George for--let me take that back. He tried to</p> <p>18 explain to me a little bit of--I don't remember</p> <p>19 exactly the name of the Labor Acts. About he</p> <p>20 explained to me how George's responsibility to record</p> <p>21 everybodys time and how close had the right to record</p> <p>22 the time that they were working too and how this act</p> <p>23 if you do overtime past I believe 40 hours a week</p> <p>24 you're entitled to an hour and a half and how</p> <p>25 Mr. Stewart have all of this overtime if he worked</p> | <p style="text-align: right;">Page 65</p> <p>1 basically anything. It doesn't necessarily require</p> <p>2 for the suing party to have evidence against you or</p> <p>3 not and you already bring damage because a lot of</p> <p>4 money to call the people he said one of the ways to</p> <p>5 avoid it, make a sort of possibility of you being</p> <p>6 sued so he said I could sue first or also an option</p> <p>7 would be I could join their case. I wouldn't have to</p> <p>8 pay anything because he was on contingency is the</p> <p>9 term.</p> <p>10 After he mentioned that, I said I was</p> <p>11 not interested in joining the lawsuit. I just wanted</p> <p>12 to get counsel as to what to do in regard to the</p> <p>13 letter and I don't remember what he said again about</p> <p>14 the option of joining the lawsuit.</p> <p>15 I remember I told him well, even if I</p> <p>16 were to consider that option, I don't think he</p> <p>17 mentioned something about if I would be qualifying</p> <p>18 body. He doesn't know if I was qualifying body. He</p> <p>19 said even if I decide to consider that option, I</p> <p>20 don't think--I wouldn't be qualified body. I'm</p> <p>21 trying to avoid getting out of the problem by getting</p> <p>22 more involved in the problem.</p> <p>23 Q. Did David Stewart ever ask for you to</p> <p>24 invest in his lawsuits?</p> <p>25 A. I recall. I don't remember him</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 explicitly saying or inviting me to invest in the</p> <p>2 form of investment.</p> <p>3 Q. Did he ask to borrow money from you?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Did you give him any money?</p> <p>6 A. No.</p> <p>7 Q. Did Mr. Stewart ever talk about</p> <p>8 supporting Mr. Kaltner?</p> <p>9 MR. SCHUSTER: Objection.</p> <p>10 Q. Do you recall what the term extortion</p> <p>11 is?</p> <p>12 A. Same as blackmail.</p> <p>13 Q. That's a fair way to categorize.</p> <p>14 Mr. Stewart ever talk to you about blackmailing</p> <p>15 Mr. Kaltner?</p> <p>16 A. Not directly. You can expect as of my</p> <p>17 understanding, at one point he mentioned he knew a</p> <p>18 lot of things. He's working for George for a long</p> <p>19 time, even before George came up with the company</p> <p>20 Avatar Sales Technology and that he knew a lot of</p> <p>21 things of the businesses and himself. So at some</p> <p>22 point I got under the impression he intended to do</p> <p>23 so.</p> <p>24 Q. Do you know whether or not Mr. Stewart</p> <p>25 had access to Avatar Technologies or Sales</p> | <p style="text-align: right;">Page 68</p> <p>1 Q. What is their relationship to the best</p> <p>2 of your knowledge?</p> <p>3 A. I believe Raudy's wife is cousin with</p> <p>4 Mr. Stewart's wife.</p> <p>5 Q. Ms. Valenzuela, in front of you right</p> <p>6 now previously marked as Stewart-17 during the</p> <p>7 deposition of David Stewart on June 5, 2018.</p> <p>8 I ask you to take a brief look at that</p> <p>9 document, just look through it.</p> <p>10 MR. SCHUSTER: Just for the record these</p> <p>11 are the same documents that were forwarded to me by</p> <p>12 e-mail earlier today.</p> <p>13 MR. LURIE: Yes, the full, complete</p> <p>14 document production.</p> <p>15 MR. SCHUSTER: She did have the</p> <p>16 opportunity to review that earlier today. I started</p> <p>17 a little bit later rather than have her go through</p> <p>18 this for an hour.</p> <p>19 MR. LURIE: I appreciate that.</p> <p>20 Q. Let me ask you a few questions about</p> <p>21 this document looking at the first page here.</p> <p>22 This number, we'll put a redaction on</p> <p>23 this for after the deposition cell phone number</p> <p>24 347-782-3255. Do you recognize that number?</p> <p>25 A. Yes.</p> |
| <p style="text-align: right;">Page 67</p> <p>1 Technologies client lists?</p> <p>2 A. Yes.</p> <p>3 Q. Did he have access to those lists?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know whether or not Mr. Stewart</p> <p>6 had a copy of those client lists after he ceased</p> <p>7 providing services to my client?</p> <p>8 A. No.</p> <p>9 Q. Did Mr. Stewart at any time ever ask you</p> <p>10 to provide him a copy of the client list?</p> <p>11 A. No.</p> <p>12 Q. Did Mr. Stewart tell you whether any</p> <p>13 people provided him with money to finance his</p> <p>14 lawsuits?</p> <p>15 A. No, not that I recall.</p> <p>16 Q. You mentioned somebody was on the call</p> <p>17 many years before this Raudy. Other than working in</p> <p>18 the tech office at Avatar, did you know Raudy on a</p> <p>19 personal level?</p> <p>20 MR. SCHUSTER: Object to form.</p> <p>21 A. We went out to lunch with Bria a couple</p> <p>22 of times out of the office.</p> <p>23 Q. Do you know whether Raudy and</p> <p>24 Mr. Stewart were related?</p> <p>25 A. I know they were not directly related.</p> | <p style="text-align: right;">Page 69</p> <p>1 Q. What number is that?</p> <p>2 A. That's my cell phone.</p> <p>3 Q. Did you have a work cell phone when you</p> <p>4 were working for Avatar or Sales Technologies?</p> <p>5 A. Yes.</p> <p>6 Q. What was the telephone number for that</p> <p>7 phone if you remember?</p> <p>8 A. I don't recall.</p> <p>9 Q. When you left the employment of Sales</p> <p>10 Technologies and/or Avatar Technologies did you</p> <p>11 return that telephone?</p> <p>12 A. Yes.</p> <p>13 Q. Did you erase that telephone before you</p> <p>14 returned it?</p> <p>15 A. I believe I did.</p> <p>16 Q. Why did you erase the telephone?</p> <p>17 A. I erased the telephone because there</p> <p>18 were a lot of--I'm not sure why I erased the</p> <p>19 telephone. I know Mr. Stewart told me to do so. I'm</p> <p>20 not sure if that's the reason I actually did it.</p> <p>21 Q. Were you having conversations with</p> <p>22 Mr. Stewart on your work phone?</p> <p>23 A. Yes.</p> <p>24 Q. Were you having conversations with</p> <p>25 Mr. Stewart on your work phone even after he left</p> |

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| <p style="text-align: right;">Page 70</p> <p>1 providing services for Sales Technologies or Avatar 2 Technologies? 3 A. Yes. 4 Q. Do you recall the content of any of 5 those discussions that you had with Mr. Stewart on 6 your work cell phone? 7 A. I recall the content of a particular 8 conversation which is probably the one relevant to 9 this matter. 10 Q. What was that conversation? 11 A. This was about his severance package. 12 Q. What was Mr. Stewart's severance 13 package? 14 A. I don't recall the details. He got paid 15 what I thought was a good amount of money for 16 somebody that was being let go under the terms he was 17 being let go. 18 Q. Do you have any recollection of what 19 those were? 20 A. No, not exactly. 21 Q. Do you know if Mr. Stewart received a 22 vehicle as part of his settlement? 23 A. Not that I know. 24 Q. Do you know if there was a cash payment 25 to Mr. Stewart?</p> | <p style="text-align: right;">Page 72</p> <p>1 statements. Even though Mr. George, he was the one 2 keeping the accounting of the company paying taxes 3 and everything. 4 Q. That's DAVIDTPO? 5 A. Yes. So he kept DAVIDTPO records on 6 Mount Vernon office and as of my own, it belonged to 7 him. 8 Q. Look at the next page, about the middle 9 of the page, "make sure you have statements or which 10 ones do you need so I can get them to you. We 11 basically have four days only to get anything. I'm 12 assuming he'll have Max hijack all of my stuff as 13 soon as I tell him I'm leaving." 14 Can you tell me what you meant by that? 15 A. Again, statements I believe when I asked 16 him if he had DAVIDTPO statements. I don't know if I 17 received a concrete answer. Since I was approaching 18 the day of my departure from the company, I wanted to 19 make sure he had them because he was not allowed 20 access to the office so I'm sure once I left probably 21 he was not going to get them. 22 Q. Please continue. 23 A. Also, I remember when this happened was 24 around the day he left. He didn't leave on good 25 terms. There was an argument between him and George</p> |
| <p style="text-align: right;">Page 71</p> <p>1 A. He was wired money. 2 Q. Beside wired, did he receive any check? 3 A. I don't recall if he received a check. 4 Q. The document is in front of you. Has 5 Bates stamp number which is for brevity, I'm going to 6 identify the last four digits on there, 3536. Second 7 comment from you, second text message from you states 8 "I thought you took all of those statements." What 9 did you mean by that? 10 A. I believe I was talking about his 11 statements were kept at office. 12 Q. What type of statements are these? 13 A. They were bank statements. 14 Q. Are you familiar with whether or not 15 there was a folder on Avatar or Sales Technologies 16 computers that was labeled DAVIDTPO? 17 A. There might be. There might have been a 18 folder. 19 Q. If there was a folder, would you have 20 had access to that folder? 21 A. I don't think so. Not that I recall. 22 Q. Do you know why Mr. Stewart would ask 23 you to take statements from that folder? 24 A. As of my understanding for the record 25 this was a physical folder with physical bank</p> | <p style="text-align: right;">Page 73</p> <p>1 and that's why I believe he didn't have time to take 2 all of his belongings including his bank statements. 3 Q. Were you present at the time of this 4 argument? 5 A. I was present in the office, but not in 6 the exact office where this argument took place. 7 Q. To the best of your recollection what 8 was this argument in reference to? 9 A. I didn't hear what was going on. I 10 heard people yelling, screaming and Mr. Stewart told 11 him something, but I don't recall what they were. 12 Q. People, was it people yelling? 13 A. Yes. 14 Q. Do you know who was yelling? 15 A. Mr. George Kaltner and also some point 16 Mr. Stewart, I believe there was something about his 17 trip to the Philippines and this argument. 18 Q. I'll ask you to go two pages forward, 19 3539. Looking at this document which is marked page 20 3539, there's a statement. Mr. Stewart sends you a 21 text message on 8/9/2015 "delete all messages between 22 you and I on your corporate phone." Did you see 23 that? 24 A. Yes. 25 Q. You were discussing where your</p> |

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| <p style="text-align: right;">Page 74</p> <p>1 recollection was Mr. Stewart was telling you to 2 delete your phone? 3 A. Yes. 4 Q. To the best of your recollection this 5 was not the reason that you deleted all the messages 6 on your phone? 7 A. Maybe part of the reason why. 8 (A discussion is held off the record.) 9 (There is a recess.) 10 Q. I ask you to turn to page 3542, three 11 more pages right in the middle. There's a message 12 from Mr. Stewart. He writes ported. Do you know 13 what he means by that? 14 A. I'm not sure. I don't recall. 15 Q. Do you know what page called fiverr.com 16 is? 17 A. Yes. I believe this is web site to 18 provide multiple services for minimum fee at the time 19 five dollars. One of the services is creating or 20 updating resume. 21 Q. After Mr. Stewart writes ported, you 22 write back and say "Great. Thanks for updating. Now 23 I can stop sabotaging LOL, couldn't wait to tell 24 you." What did you mean by that? 25 A. I couldn't wait to tell you belongs to</p> | <p style="text-align: right;">Page 76</p> <p>1 "5 K should be sent tomorrow, right. I got to pay 2 lawyers fees, lol." 3 Further down about halfway down you do 4 write "I'll try to 5 K, but it's 4K actually." Were 5 you attempting to work with, I want to be clear, 6 there's been a relief in this case. I'm going to ask 7 about that. 8 Were you working with Mr. Stewart to 9 increase the amount of money that he was receiving 10 beyond the money he was supposed to receive? 11 A. No. He said 5 K. When I answer, I 12 tried to 5 K. I will try to ask George if he could 13 send 5 K, one K more. I will not take a stand and 14 wire that amount of money other than the way he will 15 receive. 16 Q. The next line below it says "I don't 17 even have an excuse to Alan, lol." Is that just a 18 typo? 19 A. No. 20 Q. What is that? 21 A. If we go back to the same page, the 22 first message where it says "there was donation 23 letter day, are you Alan." Alan is this other 24 employee I mentioned earlier today and he was sort of 25 unhappy because of the payment that he was getting at</p> |
| <p style="text-align: right;">Page 75</p> <p>1 the message below that one, the previous message 2 where it says "Great. Thanks for updating." I don't 3 remember exactly what he was referring to, term 4 sabotaging when we were negotiating with 5 Mr. Stewart's severance package. 6 When I say we, I mean Mr. George Kaltner 7 and Mr. David Stewart and because I was in the 8 process myself, I will communicate to Mr. Kaltner 9 Mr. Stewart's demands basically on the text messages 10 he was sending to me on my work phone. 11 Beside that, he would talk about it in 12 my personal phone re-dial so we would agree on what 13 to do next in regard to that. For example, if he 14 didn't--if he wanted money sooner he will tell I need 15 the money sooner, can you ask him to wire me the 16 money sooner so I will do it in a way as if it came 17 from me. 18 When Mr. Stewart demands where I said 19 "Thanks. Now I can stop sabotaging" is because even 20 though I said it in the form of a joke, I sort of 21 felt I was sabotaging in a way because I was making 22 it look like I was giving honest opinion of the 23 matter when Mr. Stewart was behind that opinion. 24 Q. Now, look to the next page, 3543, top of 25 the page Mr. Stewart writes to you and said also that</p> | <p style="text-align: right;">Page 77</p> <p>1 the company so he had constantly stress. He will 2 leave the company. He wanted to find another job, 3 but he would never do so. 4 In this case is replacement for 5 something, will you chicken out, will you just not do 6 it, will you be scared to do it. 7 Q. You can turn to page 3544, below halfway 8 down Mr. Stewart writes "all three are alike, they 9 don't cultivate and nurture and support." Do you know 10 every process in billing system completely from me. 11 The guy just gave me one day tutorial back in 2011" 12 and you respond and say "I know, that's what stress 13 alone is to what is moving me to leave. I know every 14 work environment is stressful, but there are many 15 pluses." 16 Is it your understanding that 17 Mr. Stewart developed all of the billing processes 18 for Avatar Technologies and Sales Technologies? 19 A. Yes. 20 Q. Do you know of anyone else who developed 21 any of the processes for billing for Avatar 22 Technologies or Sales Technologies? 23 A. George might have on some of those. 24 Q. There would be at the beginning of this 25 process?</p> |

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| <p style="text-align: right;">Page 78</p> <p>1 A. I was not with the company in the 2 beginning. I don't know the answer to that. 3 Q. But responded back "I know you created." 4 Did Mr. Stewart say that he created all of the 5 billing processes? 6 A. Yes, he did. 7 Q. To the best of your knowledge did he 8 create all the billing processes? 9 A. That's what I understood. 10 Q. Turn to 3548, there's a link here from 11 Mr. Stewart provides to you and before that 12 Mr. Stewart next time he asks you about me states "I 13 learned something about Avatar. I'm super pissed off 14 for one is convicted criminal, link below that, theft 15 by deception, below that says if George asks, I'll 16 send it to the other phone." Is that an accurate 17 reading? 18 A. Yes. 19 Q. He said "sent it to the other phone." 20 Is he referencing your work phone? 21 A. Yes. 22 Q. Previously we talked about your belief 23 that Mr. Stewart was trying to blackmail Mr. Kaltner 24 is one of the discussions you were referencing about 25 being blackmailed?</p> | <p style="text-align: right;">Page 80</p> <p>1 5,5, 4 or something like that. 2 Q. So it accurate to say it was 14,000 3 dollars being paid out? 4 A. Around. 5 Q. Do you recall the frequency of these 6 wires? 7 A. No. 8 Q. Do you know if Mr. Stewart had filed any 9 documents in order to get the severance? 10 A. I don't recall. 11 Q. Turn to 3555, third message down from 12 Mr. Stewart--strike that. Looking at the message 13 right before that, he writes "MIA, are you okay." 14 Do you know what he's referencing? 15 A. I guess he means missing in action. I 16 think that's sometimes for a while you don't hear 17 from someone. I believe we might have had a little 18 bit of time not communicating at the time that he 19 sent me that message. 20 Q. It's not a nickname or anything? 21 A. No. 22 Q. Next message down he writes "it's on 23 with me and George." Do you see that? 24 A. Yes. 25 Q. Did you talk with Mr. Stewart after he</p> |
| <p style="text-align: right;">Page 79</p> <p>1 A. Not exactly. I would say this could 2 have been part of it. I don't know how exactly 3 Mr. George--This is part of what I was talking about. 4 Q. Do you know anything else about the 5 allegations of Mr. Razzouk being a convicted 6 criminal? 7 A. Not that I recall. 8 Q. Did you look into what Mr. Stewart 9 talking about with respect to Mr. Razzouk? 10 A. I believe I opened a link provided and 11 I'm not sure. My recollection is not too clear that 12 much. I don't recall exactly what he said. 13 Q. Moving forward now, page 3551 starting 14 at the top Mr. Stewart writes and says "so now I just 15 need that balance ASAP, what do we need to do to get 16 it SAP." 17 You respond by "what balance, your 4k 18 you mean." What is that discussion referencing? 19 A. This reference to the remaining balance 20 of his severance package. 21 Q. Do you recall how it was to be paid out 22 to Mr. Stewart? 23 A. There were wire transfers. 24 Q. Do you recall how many there were to be? 25 A. Maybe three, I believe Mr. Kaltner made</p> | <p style="text-align: right;">Page 81</p> <p>1 sent you that message on the telephone? 2 A. I don't recall if I spoke to him right 3 after I received that text message. I did speak with 4 Mr. Stewart a couple of times on the phone, but I 5 don't recall exactly to this. 6 Q. Do you have any understanding what 7 Mr. Stewart meant by writing "it's on with me and 8 George." 9 A. Well, I believe this might have been 10 around the same time of one of the e-mails he sent me 11 that it showed the the whole e-mail thread between 12 Mr. Kaltner and David Stewart where they were going 13 back and forth about the demands of Mr. Stewart and 14 Mr. Kaltner answering back to him not abiding and 15 telling him how he was responsible for a lot of 16 money, that his business is lost and that he could be 17 sued for this. 18 They were just going back and forth. I 19 cannot tell you exactly, but as far as I remember the 20 end of the thread, I saw they just challenged each 21 other, I'm not abiding by your terms, you're not 22 abiding by my terms so bring it on. That's one of 23 the words. 24 Q. Were these forwarded to you? 25 A. Yes.</p> |

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| <p style="text-align: right;">Page 82</p> <p>1 Q. Are they in the e-mails that you 2 provided today?</p> <p>3 A. Yes.</p> <p>4 Q. I ask you to move to page 3559. 5 Starting at the top of the page you write to 6 Mr. Stewart, "what were you doing around here, 7 George." Mr. Stewart responds "my Filipino friend 8 that I met in back lived up state B-a-g-u-i-o. Do you 9 know who that person is that Mr. Stewart is 10 referencing?</p> <p>11 A. He mentioned him to me, but I don't know 12 the person.</p> <p>13 Q. Is that a man?</p> <p>14 A. I think it's a man.</p> <p>15 Q. Do you have any remembrance of what that 16 person's name is?</p> <p>17 A. I'm sorry. I do not.</p> <p>18 Q. If you can step back to 3555, the page 19 you were on before, after you had that text message 20 you received from Mr. Stewart that you just mentioned 21 before, the date on that is August 10, 2015. The 22 next text message is October 11, 2016, more than a 23 year later. In that approximately 14 month period 24 did you have any communications with Mr. Stewart?</p> <p>25 A. I don't believe so. Like I said, we</p> | <p style="text-align: right;">Page 84</p> <p>1 what was going on, what they talked about and he 2 found a lawyer. Some point I stopped paying 3 attention. I didn't want to listen to it. 4 Eventually he took me to not bore me as much as 5 possible in the hopes he will get over the whole 6 situation, come back to being a friend. Stop talking 7 about it, about that matter all the time and just be 8 a friend, talk about other things, maybe help me with 9 things like find a job.</p> <p>10 I wasn't employed for over a year. I 11 didn't have anybody helping me review my resume or 12 cover letter. Someone that had more knowledge and 13 more intelligent that I would appreciate a little bit 14 of help with things like that beside just listening 15 to his problem.</p> <p>16 Q. Was it your impression Mr. Stewart was 17 someone obsessed with this situation?</p> <p>18 A. Absolutely. Yes.</p> <p>19 Q. You mentioned you were unemployed for 20 more than a year, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Did you seek unemployment at the time?</p> <p>23 A. No.</p> <p>24 Q. So you left and then you just were 25 trying to find another job?</p> |
| <p style="text-align: right;">Page 83</p> <p>1 spoke on the phone a couple of times. Maybe once, 2 one of those times might have been between that time 3 period, but I remember I tried to avoid communicating 4 with Mr. Stewart as much as I could.</p> <p>5 Q. Can you explain since we're on the 6 record what the reasoning was that you didn't want to 7 have any communications with Mr. Stewart?</p> <p>8 A. Well, he wouldn't stop talking about his 9 experience while working with George Kaltner and how 10 he was dismissed from the company, how he was 11 mistreated unfairly and he wouldn't stop trying to 12 update me on little details that sometimes would come 13 up out of nowhere.</p> <p>14 I didn't really understand. I didn't 15 know about or I didn't want to have anything to do 16 with partially because after I left the company, I 17 wanted to leave the experience that I had in regard 18 to the stressful environment and gossip. I wanted to 19 leave that behind me. I wanted to close the chapter.</p> <p>20 By Mr. Stewart bringing it up, his 21 issues with Mr. George Kaltner, he was not allowing 22 me to do. I believe I tried to ask him to stop. 23 Maybe I wasn't expressively direct enough for him to 24 understand it, but he wouldn't stop talking to me.</p> <p>25 This is all he would talk about George,</p> | <p style="text-align: right;">Page 85</p> <p>1 A. Yes.</p> <p>2 Q. At any point did you consider going back 3 to Mr. Kaltner or return to Avatar or Sales 4 Technologies?</p> <p>5 A. To be honest, it crossed my mind maybe 6 once, but then I thought it wouldn't be a good idea.</p> <p>7 Q. Why did you think it would not be a good 8 idea?</p> <p>9 A. Well, beside the whole issue between him 10 and David, a couple of reasons. The first one is 11 they would probably try to use that in their favor, 12 make me do things or ask me to do things.</p> <p>13 Q. Do you mean spy for him?</p> <p>14 A. Maybe, I don't know, but it crossed my 15 mind maybe not a good idea. As soon as he learned 16 I'm working for George even in this text messages, he 17 out of nowhere came up with the idea of me going back 18 to work for him, asking him for outrageous amount of 19 money compared to what I was being paid. That was 20 also confirmation. That's not an if idea I didn't 21 feel good after a while that I was texting about his 22 severance package behind George's back. We didn't 23 have any issues between George.</p> <p>24 Q. Issues with George; is that right?</p> <p>25 A. Yes.</p> |

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| <p style="text-align: right;">Page 86</p> <p>1 Q. I ask you to turn to page 3564 starting 2 toward the bottom of the page about halfway through 3 the page Mr. Stewart writes to you, says "heading to 4 court. You respond "really, I didn't?" Mr. Stewart 5 then writes "George is such a dumb d-i-c, suing me 6 for Avatar Dialler with two ll's.com. He think I own 7 that company at time, arrival one word arrival to 8 Avatar Technologies. He's a fuckin idiot and wasted 9 my fuckin time so I'm speaking to lawyers to counter 10 sue and try to get 250,000 dollars out of him." You 11 respond back and says "is this about your fight." 12 Moving to the next page Mr. Stewart 13 responds back and says, now page 3565, "another 14 fight, completely different, he has zero evidence and 15 of course I have all the evidence. I just need one 16 of these three cases to pay out so I can fund the 17 others and take all his money. 18 Q. What's your understanding about what 19 Mr. Stewart was talking about at this time? 20 A. Well, the impression that I had at the 21 time, the text message talking about the 250,000 22 account, he would try to get back from George was 23 that he was pissed. He was upset because George 24 making accusations about AVATAR DIALLER which at the 25 time of this message I understood he was, Mr. George</p> | <p style="text-align: right;">Page 88</p> <p>1 A. Not that I recall. 2 Q. Do you have any recollection of seeing 3 Mr. Stewart posting payroll records for Avatar 4 Technologies on Facebook? 5 A. Not that I recall. 6 Q. Do you have any recollection of 7 Mr. Stewart posting saying "my company, Avatar 8 Dialler will not be taken down, don't mess with me, 9 my company will destroy you or something to that 10 extent? 11 A. To be honest with you I don't recall 12 that. 13 Q. Do you recall ever seeing any online 14 posts from Mr. Stewart referencing a company called 15 Avatar Dialler with two ll's? 16 A. I don't recall seeing that. 17 Q. Did Mr. Stewart ever send you an e-mail 18 using his e-mail address as DavidssAvatarDialler with 19 two ll's.com? 20 A. No. 21 Q. Mr. Stewart ever call you and say you 22 could reach me at that same e-mail address? 23 A. No, not that I recall. 24 Q. Did Mr. Stewart ever send you an e-mail 25 from e-mail address DavidssDialler360.com?</p> |
| <p style="text-align: right;">Page 87</p> <p>1 Kaltner, AVATAR DIALLER. 2 I didn't know the difference between the 3 L's. I wasn't sure what he meant by he thinks I own 4 that company and I'm arrival. I know him meant 5 George thought he owned the company, but I didn't 6 understand why would what George say he owns the 7 company that belongs to him. That's my rationale. I 8 understood that he was upset because of this and as a 9 result, he wanted to get back at George for making 10 that accusation against him and take all their amount 11 of money from him so he could fund his other cases 12 against him and take even more money. 13 Q. Do you use Facebook? 14 A. Yes. 15 Q. Are you a Facebook friend of David 16 Stewart? 17 A. Yes. 18 Q. Are you familiar with his postings? 19 A. Not at the moment, but before I saw some 20 of his postings, I seen done posting in a while. I 21 don't know if he elected for them not to be showed to 22 me because I know that's option or if he's not 23 posting. 24 Q. Do you recall seeing Mr. Stewart posting 25 business records of Avatar Technologies on Facebook?</p> | <p style="text-align: right;">Page 89</p> <p>1 A. Not that I recall. 2 Q. Do you recall him ever telling you that 3 was an e-mail address which he could be reached at? 4 A. Not that I recall. 5 Q. Turn to page 3566, about the middle of 6 the page starts with "how was your court appointment 7 going on the same date. The next line is "why are 8 you putting that stuff on FB. "I presume FB is 9 Facebook? 10 A. Yes. 11 Q. His next response to you is "I need to 12 get like 10 to 20K." You respond "but you're sharing 13 your moves online." He responds back "my real moves 14 are never shared, girl. This is just the bait and 15 switch." 16 The next page 3567 you respond back "um" 17 and then he writes "I need them to settle, I don't 18 want the case to be dragged out, it's attracting 19 attention to all the ex-employees will be inclined to 20 testify on my behalf." 21 What is it Mr. Stewart was posting on 22 Facebook to the best of your recollection? 23 A. To the best of my recollection again 24 that I saw maybe one or two postings about him 25 needing money to continue his fight. His employer</p> |

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| <p style="text-align: right;">Page 90</p> <p>1 elaborated on this posting. He said something along 2 the lines of he needed money to continue the cases 3 against his employer. 4 I think he put some of the accusations 5 that he brought to court in the posting, but I'm not 6 sure. That's what I was trying to be a friend and 7 advice to my knowledge, you should not be posting 8 things about litigation or any legal matter on 9 Facebook. It will counter-attack you or it could be 10 detrimental to you. It's something you're not 11 supposed to talk about and talking about. That's 12 what I mean. 13 Q. You recall seeing that message, but you 14 have no recollection seeing any messages around the 15 same time of Avatar Dialler or court can't stop him? 16 MR. SCHUSTER: I'm a little unclear what 17 we're talking about. Are you talking about Facebook 18 posting she may have seen? I don't know if you've 19 established she visited the site. I assume she did 20 in question. We didn't put that as part of the 21 record she ever visited the site. 22 Q. Did you ever log onto Mr. Stewart's 23 Facebook page to view it? 24 A. You mean logging into his personal 25 account or visiting his Facebook page?</p> | <p style="text-align: right;">Page 92</p> <p>1 A. Yes. 2 Q. Switch to page 3568 starting about less 3 than halfway through Mr. Stewart writes "they can't 4 win against me. Remember that I prepared for this, 5 years of preparation" and you respond back and say 6 "yes, I know you prepared." 7 What is it to the best of your 8 understanding that Mr. Stewart was preparing for? 9 A. Well, I remember that Mr. Stewart was 10 doing a lot of reading online at the time that he--I 11 believe he started doing a lot of reading at the time 12 that he started being demoted and that his salary was 13 being cut in half. He was getting educated in law, 14 unemployment law especially after he was let go of 15 the company. 16 As far as I believe he was looking for a 17 way to counter the disposition of his demotion and 18 salary being cut in half. His impression, he was 19 doing nothing illegal. He could claim it was not 20 legal to maybe get his full pay to what he wants. 21 But then I know after that sometimes he 22 would share it with me, that he was reading on 23 employment law. He would encourage me to read it. 24 Preparing for the time for he found a lawyer so he 25 could know exactly what he wanted to get advice on,</p> |
| <p style="text-align: right;">Page 91</p> <p>1 Q. Visiting his Facebook page. 2 A. Not for a long time, not after we spoke 3 about. 4 Q. There would be in approximately January 5 of 2017, January 3rd of 2017. You recall visiting 6 his Facebook profile? 7 A. I would not say it like that. Things 8 that people post will come up on your feet. 9 Sometimes if the person posts it in the morning and I 10 log into my Facebook in the afternoon, I might not 11 seen the posting because every other posting are 12 being made within after that person made the posting 13 or covering. That might be unless I'm scrolling all 14 the way down. Sometimes I had nothing else to see 15 and I was scrolling down and I would see things. 16 Sometimes there would be things you would not see 17 because so many other people posted. 18 They would crawl that all the way down 19 or take it out of there completely. I don't recall 20 specifically something I might have went to his 21 profile, but I don't recall going for the sole 22 purpose of seeing what he was posting. 23 Q. So to the best of your recollection 24 these posts about needing money to the best of your 25 recollection, it was part of your amusement?</p> | <p style="text-align: right;">Page 93</p> <p>1 he would be educated on that. 2 Q. So I understand this, even prior to 3 Mr. Stewart no longer providing services for Avatar 4 Technologies or Sales Technologies he was preparing 5 for a lawsuit to be filed? 6 MR. SCHUSTER: Object to form. You can 7 answer. 8 A. No. I would not say he was preparing 9 for a lawsuit. I don't believe he believed there was 10 ever going to be a lawsuit. I don't know if this 11 will answer the question. Mr. Stewart sometimes, 12 oftentimes he is the type of person did not believe 13 what was going on. He was going on. After a while 14 he was in trouble because he was being demoted and he 15 acted as if nothing was wrong, things would go back 16 to normal. 17 I guess he was really just to get 18 educated as to what was being done to him, if it was 19 being legal so he do process with something to back 20 up his process. 21 Q. Do you recall approximately when it was 22 that Mr. Stewart was, a term you used, demoted and 23 his pay cut in half? 24 A. I don't recall exactly. 25 Q. Switching now to page 3569 starting with</p> |

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| <p style="text-align: right;">Page 94</p> <p>1 messages that Mr. Stewart is writing, first one he 2 references Ted. Is that Ted Knells? 3 A. Yes. 4 Q. The second messages about Mr. Knells, he 5 makes some derogatory comment about him and then 6 writes, "I keep him close though because I'm the 7 ultimate enemy." What do you understand Mr. Stewart 8 to be talking about there? 9 A. To be honest with you, this is one of 10 the many comments that I wasn't sure what he meant. 11 I believe he was referring to Mr. Ted no longer 12 communicating with him, cooperating with Mr. George 13 Kaltner, I'm not sure what he meant by "I keep him 14 close." Maybe he was going to try to keep contact 15 and text so maybe he could get some insight from 16 whatever he was talking with George. It was my 17 understanding Ted was not answering Mr. Stewart's 18 phone calls. I don't know exactly what he meant 19 here. 20 Q. Go to 3570, right in the middle 21 Mr. Stewart writes "what's the girl from Concord that 22 entered the transaction in Quick Books, Shat, got 23 it." You respond back "yes, Shay. Mr. Stewart writes 24 and says "Shay, what was her last name." 25 What is your understanding Mr. Stewart</p> | <p style="text-align: right;">Page 96</p> <p>1 Q. Was there an accounting issue that 2 Mr. Stewart was referencing at that time? 3 A. There was a problem with our books 4 because it turns out they were not--the company was 5 not brought up in the right order from the beginning. 6 Things had to kind of be turned around, upside down 7 for them to be straight if that makes sense. 8 Q. Do you know what it was that was done in 9 error? 10 A. There were many things. I don't recall 11 what they were. That's why the people were hired. He 12 was in charge of finding what was wrong and fixing 13 it. There was so many things. It was broken down in 14 parts. I'm not sure what the whole thing looked like. 15 I know it had to do with the books not being in the 16 right order. It looked like everything was upside 17 down. We needed to do many different steps to make 18 it right. That was the purpose. 19 Q. Do you believe that any of these issues 20 was due to the conduct of Mr. Stewart? 21 MR. SCHUSTER: Object to form. You can 22 answer the question. 23 A. I don't think I can answer that 24 question. 25 Q. Do you believe that any of the issues</p> |
| <p style="text-align: right;">Page 95</p> <p>1 was talking about with respect to entering the 2 transaction in Quick Books? 3 A. So around the time Mr. Stewart was being 4 demoted, Mr. Kaltner hired and as part of their CFO 5 we hired a temp to answer data in Quick Books. 6 Q. This was all transactions into Quick 7 Books? 8 A. I don't recall exactly what they were. 9 I know that the purpose was to enter anything that 10 was supposed to be in the books and was not in the 11 books yet. 12 Q. Go to the next page, 3571, continuation 13 of this conversation Mr. Stewart writes "Shay is to 14 refute accounting debacle, their trip to PLN on me, 15 but I don't know. I'm smarter than them. Did I ever 16 send you the e-mail of what they claim I'm 17 responsible for, breaking this up." 18 Do you know what accounting debacle 19 Mr. Stewart was referencing? 20 A. No, not that I recall. 21 Q. Then? 22 A. I'm sorry, debacle a word. 23 Q. It's a word. Do you know what that word 24 means? 25 A. No.</p> | <p style="text-align: right;">Page 97</p> <p>1 that they were trying to address that you mentioned 2 were caused by Mr. Stewart? 3 MR. SCHUSTER: Object to form again. You 4 can answer it. 5 A. I don't know. 6 Q. The next message says "did I ever send 7 you the e-mail they claim I'm responsible for." You 8 respond "I think you sent me the one for Avatar 9 Dialler" and you respond "I got her number, but you 10 can't ever say you got it from me, I ignored her 11 texts remember. It's not polite to take a phone 12 number without the owner's permission even if I don't 13 know the owner." 14 Who is this person you came to report? 15 A. I was referring to Shay, the temp. 16 Q. How did you receive her telephone 17 number? 18 A. When she was hired I was overseeing the 19 instructions from CFO. She was supposed to follow the 20 CFO who was not always there. They asked me to 21 follow-up on some of the things. Since she was 22 working closely with me because we were working in 23 the same room. 24 We interchanged phone numbers in the 25 event that she was not able to come in and she was</p> |


25 (Pages 94 - 97)

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| <p style="text-align: right;">Page 98</p> <p>1 coming in late, she would call me or text me, 2 communication to the company that she -- 3 Q. Did you have this telephone number on 4 your personal phone? 5 A. I don't remember. 6 Q. Do you still have a company phone from 7 Avatar at this point? 8 A. No. 9 Q. Turn to page 3575, looking toward the 10 top of the page, talking about a new job you write 11 "I'm learning from bookkeeping prior to this job that 12 you had in approximately January 11, 2017." Do you 13 have any training on how to be a bookkeeper? 14 A. No. 15 Q. Were you providing any bookkeeping 16 services for Avatar Technologies or Sales 17 Technologies? 18 A. I was updating bank and Quick Books. As 19 I learned later on, it's not bookkeeping itself. 20 Q. Was it your understanding you were 21 working for Avatar Technologies, Sales Technologies 22 that you were doing bookkeeping services? 23 A. No. 24 Q. Do you know the name M-a-r-e-l? 25 A. Yes.</p> | <p style="text-align: right;">Page 100</p> <p>1 A. Well, she got fired from the company. I 2 remember hearing George talk about how she betrayed 3 the company. She has something to do with a 4 boyfriend of her working outside Avatar, against 5 Avatar and she was helping him. 6 Q. Do you know what the name of the 7 boyfriend was? 8 A. No. 9 Q. Page 3618, text message from 10 Mr. Stewart, "I got a secret for you. I'll update 11 you tomorrow." You respond back "okay." Mr. Stewart 12 writes "dollar sign, dollar sign &&&." Message with 13 four dollar signs and lol. Do you know what 14 Mr. Stewart was talking about? 15 A. He might have been talking about-- 16 MR. SCHUSTER: If you know. 17 A. I'm not sure, but I think it was talking 18 about leave, something going on with Uber where he 19 mentioned he might be able to find they were doing 20 something wrong and stealing money from drivers. 21 Mr. Stewart worked as a taxi driver for 22 Uber and left some period of time so did my 23 boyfriend. I remember more than once we spoke about 24 the apps in regard to sometimes he would text me tell 25 your boyfriend, it's more expensive around this area</p> |
| <p style="text-align: right;">Page 99</p> <p>1 Q. Who is Marel? 2 A. Marel, she was hired in the Philippines 3 to help us with billing before we got Kenneth and 4 Katrina. 5 Q. Turn to page 3612, Mr Stewart writes 6 "I'm coming to work with you. I'm on Facebook 7 talking to Marel." Do you know--Mr. Stewart tell you 8 what he was talking to Marel about? 9 A. Not that I remember. 10 Q. Further down on the page, last line you 11 write "Marel question bitch Marel." Why did you state 12 that? 13 A. This is how Mr. Stewart used to refer to 14 her because we trained her to do billing. She was 15 very good at it. I believe she had something to--I 16 know she did something wrong and after we trained her 17 she betrayed us. 18 I believe she was working with her 19 boyfriend in the Philippines to steal Avatar 20 documents, information. I don't know exactly what, 21 but it might be client lists is one of them. 22 Q. That was the allegation at the time? 23 A. I believe so. 24 Q. Do you know if that allegation was ever 25 verified by anyone?</p> | <p style="text-align: right;">Page 101</p> <p>1 this time. 2 There was a time we spoke about receipts 3 I got as customer so he could compare it to the 4 report that he would get from Uber so he will see 5 things they were probably not showing. He told me 6 whatever he found, he will share with it so we also 7 could call Uber and demand if anything was owed to my 8 boyfriend. I believe this is what he was talking 9 about here. 10 Q. Do you recall having a telephone 11 conversation with him after that text message? 12 A. Probably, yes. I'm not sure. 13 Q. Do you recall that telephone 14 conversation? 15 A. No, I don't. 16 Q. Jumping way forward, page 3664, toward 17 the bottom of the page continuing to the next page 18 Mr. Stewart writes "I saw George Thursday at the 19 Department of Labor hearing, was that a good morning 20 scoop for you." You respond back "although GM." GM 21 is good morning? 22 A. Yes. 23 Q. "So the case is settled. Mr. Stewart 24 responds back "no. The MF is playing hardball and 25 instead of collaborating with him against me. I</p> |

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| <p style="text-align: right;">Page 102</p> <p>1 found out when he received a phone call from Ted 2 while he was in the waiting area. If Ted gets 3 involved, I'm going to ruin his life by putting him 4 in jail for conspiracy. I expressed that to Jason a 5 couple of days ago and to rely that message to him. 6 FYI, there are three cases, unemployment case is just 7 the first one or second, lol." 8 Do you know what Mr. Stewart is 9 referencing when he says he would put Ted, Ted Knells 10 in jail for conspiracy? 11 A. I have a mild knowledge of this. After 12 my understanding Ted Knells was not an honest person 13 so as for Mr. Stewart, he did a lot of things that 14 are not ethical and maybe not legal and Mr. Stewart 15 claimed to know about him. He didn't share these 16 things specifically with me. 17 While he was venting in one of those 18 conversations he said that he knew a lot of things 19 about Mr. Ted Knells. I'm guessing he was referencing 20 to things he believes against him. 21 Q. Did he tell you any of these things 22 specifically about Mr. Knells? 23 A. If he did, I don't recall. 24 Q. He mention Jason? 25 A. I'm sorry. Going back to Mr. Ted</p> | <p style="text-align: right;">Page 104</p> <p>1 Q. Do you have any communications with 2 Mr. Gentry? 3 A. No. 4 Q. Have you ever had any communications 5 with Mr. Gentry? 6 A. While I was working, while we were both 7 working in the company for Mr. George Kaltner we 8 would communicate as part of our job duties. 9 Q. Do you recall what Mr. Gentry's position 10 was with the company? 11 A. Again, I believe he was a CFO prior to 12 Mr. Oscar Razzouk. 13 MR. LURIE: Let me get that spelling now 14 before we forget. R-a-z-z-o-u-k. 15 Q. Did Mr. Stewart ever talk about 16 Mr. Gentry prior to say September of last year? Do 17 you have any recollection hearing about Mr. Gentry 18 prior to September 2017? 19 A. He mentioned him a couple of times. I'm 20 not sure around what time, but in reference to 21 things, inferred things Mr. Kaltner would say. The 22 part where he will collaborate against George in the 23 form of a lawsuit. I believe it was last year only 24 that I heard about that. 25 Q. Is it your understanding that the</p> |
| <p style="text-align: right;">Page 103</p> <p>1 Knells, he used to mention more than once that 2 Mr. Ted Knells--how do I say this? 3 Q. It's fine. We can try not to sound 4 improper. You can put it on the record that way. 5 A. So he will repeatedly, Mr. Ted had 6 sexual relationships with a lot of sexual 7 relationships with a lot of women that work in the 8 company and he would give them raises just because he 9 had intimacy with them. That's one of the things he 10 would mention often that I recall. 11 Q. So in other words, he alleged that 12 Mr. Knells was exchanging sexual favors for 13 employment benefits? 14 A. Yes. 15 Q. Anything else you recall about 16 Mr. Knells that may be something that could be held 17 against him? 18 A. Honestly, I don't recall specifics. He 19 would use terms as him being a dirty person. I 20 understood that it was a person that did not go by 21 the books all the time. Personally I don't know 22 exactly how. 23 Q. Do you know if Mr. Knells and Mr. Gentry 24 friendly? 25 A. I think they're friendly.</p> | <p style="text-align: right;">Page 105</p> <p>1 lawsuit that was filed by Mr. Gentry was based upon 2 false accusations if you know? 3 MR. SCHUSTER: If you know. 4 A. I don't know about that. 5 Q. Do you know if the allegations are 6 against Mr. Kaltner by Mr. Gentry? 7 MR. SCHUSTER: If you know. 8 A. I read something on Google. I Googled 9 their names. Honestly, I didn't understand what it 10 is. I don't know. 11 Q. I'll ask a couple of very direct 12 questions on this. Did Mr. Kaltner ever travel to 13 the Philippines with a large amount of money for 14 bribing judges? 15 A. I don't know. 16 Q. Did Mr. Kaltner, Mr. Kaltner have the 17 ability to control the Philippine government? 18 MR. SCHUSTER: Didn't you ask that at the 19 onset of this deposition? 20 MR. LURIE: We did. Maybe I'll be a 21 little more specific. 22 Q. Do you know about Mr. Stewart having 23 power over judges in the Philippines? 24 A. Not that I know of. 25 Q. Did you ever hear of a black list that</p> |

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| <p style="text-align: right;">Page 106</p> <p>1 bars people from entering the Philippines?</p> <p>2 A. The term sounds familiar.</p> <p>3 Q. Do you know if Mr. Kaltner controls the</p> <p>4 black list for people entering the Philippines?</p> <p>5 A. Not that I know of or that I recall.</p> <p>6 Q. Let's jump ahead to page 3668.</p> <p>7 Mr. Stewart writes "I got a bombshell for you, call</p> <p>8 me back soon." Did you speak to Mr. Stewart after</p> <p>9 that?</p> <p>10 A. I don't believe I did.</p> <p>11 Q. Follows up "nerve called me." Do you</p> <p>12 recall ever trying to find out what he was</p> <p>13 referencing about this bombshell?</p> <p>14 A. I remember trying not to find out.</p> <p>15 Q. Going to the next page, 3669 in the</p> <p>16 middle of the page Mr. Stewart writes "did I tell you</p> <p>17 Ted snitched on me to George about when I went to</p> <p>18 Baguio last year. I'm going to put Ted in jail for</p> <p>19 that shit."</p> <p>20 Did you ever have any further</p> <p>21 communications with Mr. Stewart with respect to</p> <p>22 Mr. Stewart's threats to put Ted Knells in jail for</p> <p>23 snitching?</p> <p>24 A. I don't believe I did. For a fact I</p> <p>25 remember not being interested in learning those</p> | <p style="text-align: right;">Page 108</p> <p>1 whole situation.</p> <p>2 Q. Do you recall who else was at the office</p> <p>3 at the time?</p> <p>4 A. No. I could guess.</p> <p>5 Q. Is it your belief that Mr. Stewart was</p> <p>6 suffering from any type of emotional distress?</p> <p>7 MR. SCHUSTER: Object to form.</p> <p>8 Q. Let me, did Mr. Stewart come off as</p> <p>9 being upset?</p> <p>10 A. Are you asking while he was working</p> <p>11 there or after he wasn't employed?</p> <p>12 Q. After.</p> <p>13 A. Yes. He seemed to be upset a lot of the</p> <p>14 time.</p> <p>15 Q. Mr. Stewart appear depressed?</p> <p>16 MR. SCHUSTER: Objection to the form.</p> <p>17 A. Not that I know. Depression is not</p> <p>18 recognizable.</p> <p>19 Q. Did he ever tell you he was depressed?</p> <p>20 A. No. I know he was feeling down</p> <p>21 sometimes, but I don't know recall him saying</p> <p>22 expressly the word depression.</p> <p>23 Q. Turn to the last page, 3673, last two by</p> <p>24 Mr. Stewart, "what drama am I in, I'm having fun, I'm</p> <p>25 not stressed, you should be a part of it, call me for</p> |
| <p style="text-align: right;">Page 107</p> <p>1 details.</p> <p>2 Q. 3671 Mr. Stewart writes "when you get a</p> <p>3 chance, try to recall this day, April 10, 2014. This</p> <p>4 is the date that George came to my office and</p> <p>5 brutally attacked me out of nowhere yelling and</p> <p>6 screaming "you fucked up."</p> <p>7 Next, he sent you that e-mail on the</p> <p>8 following Saturday to reduce my salary to half. Who</p> <p>9 was present at the office that day, Ted Knells, Peter</p> <p>10 Kefalas, Raudy. Was Bria, Ken or Dylan also there</p> <p>11 question mark."</p> <p>12 Do you recall receiving this text</p> <p>13 message from Mr. Stewart?</p> <p>14 A. I recall.</p> <p>15 Q. Do you recall April 10, 2014?</p> <p>16 Q. What happened on April 10, 2014?</p> <p>17 A. If this is the day that he's implying</p> <p>18 this argument happened, George met with Mr. Stewart</p> <p>19 to claim to him or discuss his performance. That's my</p> <p>20 only understanding. His performance on the job he</p> <p>21 was sent to do in the Philippines.</p> <p>22 There was a discussion. This expression</p> <p>23 fucked up was said. I don't remember a lot of</p> <p>24 details. I know George was upset. He was letting</p> <p>25 David know how he felt and what he thought of the</p> | <p style="text-align: right;">Page 109</p> <p>1 a one minute chat. It seems as if I'm the only one</p> <p>2 who believes."</p> <p>3 Do you know what Mr. Stewart was talking</p> <p>4 about at that time?</p> <p>5 A. Well, previous text message from him</p> <p>6 where he was asking me why wasn't I communicating, if</p> <p>7 I too was stopped from talking to him. I told him</p> <p>8 nobody can tell me who I can talk to or not. I think</p> <p>9 he asked me something along the lines of if I wasn't</p> <p>10 interested on having communications with him anymore</p> <p>11 and I said I do, but you're involved in too much</p> <p>12 drama. This was his response to that.</p> <p>13 Q. The last message takes place on December</p> <p>14 14, 2017. Did you have any other text messages with</p> <p>15 Mr. Stewart after December 14, 2017?</p> <p>16 A. No.</p> <p>17 Q. Prior to your reaching out to him after</p> <p>18 you received the letter from my office, did you have</p> <p>19 any communications with Mr. Stewart between you</p> <p>20 received that letter and the date of December 14,</p> <p>21 2017?</p> <p>22 A. No.</p> <p>23 Q. Are you familiar with the program called</p> <p>24 viber, v-i-b-e-r?</p> <p>25 A. Yes.</p> |

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| <p style="text-align: right;">Page 110</p> <p>1 Q. Do you have a viber on your phone?</p> <p>2 A. No.</p> <p>3 Q. Did you ever have viber on your phone?</p> <p>4 A. Yes.</p> <p>5 Q. Did you communicate with Mr. Stewart</p> <p>6 over viber?</p> <p>7 A. Yes.</p> <p>8 Q. What's your understanding of what viber</p> <p>9 is as a program?</p> <p>10 A. My understanding is viber is a texting</p> <p>11 app or chatting similar to other texting apps.</p> <p>12 Q. But nothing in particular special about</p> <p>13 viber otherwise?</p> <p>14 A. Well, I think if you use--you can use it</p> <p>15 overseas with what is app. You get Internet access</p> <p>16 you don't need to have your phone number connected.</p> <p>17 That's what I believe. You don't need to have your</p> <p>18 phone number connected to a service. You can use it</p> <p>19 with Internet, do phone calls and text messages I</p> <p>20 believe.</p> <p>21 Q. Do you recall what your discussions with</p> <p>22 Mr. Stewart were over viber?</p> <p>23 A. Well, we had very few discussions over</p> <p>24 viber. I remember the purpose of the app was to talk</p> <p>25 about another emotional corner. He had like a second</p> | <p style="text-align: right;">Page 112</p> <p>1 investment. He did say he was trying to get people</p> <p>2 to collaborate and help him in his case.</p> <p>3 Q. Did he ever ask you directly to loan him</p> <p>4 any money?</p> <p>5 A. Not that I recall.</p> <p>6 MR. SCHUSTER: You asked that already.</p> <p>7 Q. Are you familiar with an individual</p> <p>8 named Jeff Torrez?</p> <p>9 A. Prior to you mentioning I have no</p> <p>10 recollection of this person.</p> <p>11 Q. Since I mentioned that, has anything</p> <p>12 about Jeff Torrez refreshed your recollection about</p> <p>13 him?</p> <p>14 A. I tried to think if I know or heard the</p> <p>15 name, but I can't recall. I believe I didn't hear of</p> <p>16 this person.</p> <p>17 Q. Are you familiar with the company that</p> <p>18 Mr. Stewart and Mr. Knells formed in the Philippines?</p> <p>19 A. No.</p> <p>20 Q. Do you know if Mr. Stewart and</p> <p>21 Mr. Knells formed a business in the Philippines?</p> <p>22 A. No.</p> <p>23 Q. Mr. Stewart in text messages talking</p> <p>24 about Ted with Baguio. Do you know what he was</p> <p>25 referencing about Baguio?</p> |
| <p style="text-align: right;">Page 111</p> <p>1 wife. His wife here in the States would go to the</p> <p>2 phone and will look at the messages he didn't want</p> <p>3 her to see. I think she still doesn't know about his</p> <p>4 wife.</p> <p>5 Q. Your understanding is he wanted to</p> <p>6 utilize this program to discuss affairs he was</p> <p>7 having?</p> <p>8 A. Yes. Sometimes he would talk to me</p> <p>9 about personal things like that, this was a person he</p> <p>10 cared for. He would tell me about how she was doing,</p> <p>11 if they were going to see each other again. He would</p> <p>12 vent to me about how he felt with her or of her. He</p> <p>13 misses her, things like that. She's not dating anyone</p> <p>14 else, things like that. He didn't want his wife to</p> <p>15 see. He asked me to down load viber and that's when</p> <p>16 we started talking about that.</p> <p>17 Q. How long were you utilizing viber?</p> <p>18 A. I'm not sure, maybe a couple of months.</p> <p>19 Q. Were you aware of Raudy providing David</p> <p>20 Stewart 10,000 dollars to fund the lawsuits?</p> <p>21 A. Not that I recall.</p> <p>22 Q. Do you recall Mr. Stewart ever talking</p> <p>23 to you about trying to get people to invest in his</p> <p>24 lawsuits?</p> <p>25 A. Yes. I don't recall if he used the word</p> | <p style="text-align: right;">Page 113</p> <p>1 A. One of the trips, as of my understanding</p> <p>2 he made a couple of trips to the Philippines after he</p> <p>3 was no longer working for George. He might have</p> <p>4 visited this state. I don't know what Baguio is,</p> <p>5 looks like a community in the Philippines.</p> <p>6 Q. Do you know if Mr. Stewart opened up a</p> <p>7 competing center, call center in the Philippines?</p> <p>8 A. What I know about that is he was working</p> <p>9 for a call center in the Philippines. I don't know</p> <p>10 for a fact if he did. He didn't tell me that.</p> <p>11 Q. Do you know who else was working at that</p> <p>12 call center in the Philippines?</p> <p>13 A. I don't think he mentioned.</p> <p>14 Q. Do you know of any other Avatar</p> <p>15 employees were working there?</p> <p>16 A. Not that I recall.</p> <p>17 Q. Mr. Stewart ever talk to you about where</p> <p>18 he was working in the Philippines getting shut down?</p> <p>19 A. I'm sorry.</p> <p>20 Q. Did Mr. Stewart ever discuss with you</p> <p>21 about this other call center in the Philippines</p> <p>22 getting shut down?</p> <p>23 A. I believe he did.</p> <p>24 Q. To the best of your recollection what</p> <p>25 did he tell you about that?</p> |

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| <p style="text-align: right;">Page 114</p> <p>1 A. He said George found out about him 2 working in call center over there. He was pissed and 3 now he cannot return to the Philippines. 4 Q. Did he tell you why he cannot return to 5 the Philippines? 6 A. I believe George pressed charges against 7 David for doing that. 8 Q. Is that what Mr. Stewart told you? 9 A. Whatever he told me made me come to that 10 conclusion. 11 Q. Do you recall Mr. Kaltner ever asking 12 Mr. Stewart to become the CEO of Rainbow Slushy? 13 A. I don't recall that. 14 Q. Do you know if Mr. Stewart was the CEO 15 of Rainbow Slushy? 16 A. Not that I know of. 17 MR. LURIE: I'm going through my notes. 18 (There is a recess.) 19 Q. One last question, do you know why 20 Rainbow Slushy closed? 21 MR. SCHUSTER: Do you know if he closed 22 it. 23 A. I think I have an idea. 24 Q. What's your understanding of why it 25 closed?</p> | <p style="text-align: right;">Page 116</p> <p>1 C E R T I F I C A T E 2 3 I, DEBORAH A. GAUGHAN, a Notary Public 4 and Certified Shorthand Reporter of the State of New 5 Jersey, do hereby certify that prior to the 6 commencing of the examination EDIVICT VALENZUELA was 7 duly sworn by me to testify the truth, the whole 8 truth and nothing but the truth. 9 I DO FURTHER CERTIFY that the foregoing 10 is a true and accurate transcript of the testimony as 11 taken stenographically by and before me at the time, 12 place and on the date hereinbefore set forth. 13 I DO FURTHER CERTIFY that I am neither a 14 relative nor employee nor attorney nor counsel of any 15 of the parties to this action, and that I am neither 16 a relative nor employee of such attorney or counsel, 17 and that I am not financially interested in the 18 action. 19 20  21 22 Notary Public of the State of New Jersey 23 My Commission Expires: 4/8/23 24 25</p> |
| <p style="text-align: right;">Page 115</p> <p>1 A. Rainbow Slushy could not make a profit 2 for various months. They, I think they never took 3 money and invested to create a business. 4 MR. LURIE: No further questions. 5 MR. SCHUSTER: No questions. 6 (Whereupon deposition is concluded at 7 4:55 p.m.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> | |

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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EXHIBIT C

Apple iPhone8,2 Quick Image.zip11/6/2017 6:20:08 PM

Where do you wok and what's up with now calling me

Apple iPhone8,2 Quick Image.zip11/17/2017 9:05:32 PM

Divorce pending!

Apple iPhone8,2 Quick Image.zip11/18/2017 9:17:56 AM

Happy Birthday Ex-Office wife...

Apple iPhone8,2 Quick Image.zip11/27/2017 6:54:48 PM

Why won't you respond? Is there something wrong?

+1347782325511/27/2017 7:37:39 PM

Received

Hey Dave!
Sorry, there have a lot going on personally. Can I call you back later on the week? I a bit busy now

Apple iPhone8,2 Quick Image.zip11/27/2017 8:00:42 PM

Ok, I'm happy to know you're well. Take care

+1347782325511/27/2017 8:04:41 PM

Received

Thanks, i hope you are well too

Apple iPhone8,2 Quick Image.zip11/28/2017 7:17:00 AM

When you get a chance, try to recall this day April 10, 2014. This is the date that George came to my office and brutally attacked me out of no where, yelling and screaming you fucked up. Next, he sent you that email on the following Saturday to reduce my salary to half. Who was present at the office that day?
Ted Nehls
Peter Kefalas
Raudy Ulloa Edivict
Valenzuela
Was Bria, Ken or Dylan also there?

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Hey